

# House Research Act Summary

**CHAPTER:** 127

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**TOPIC:** Miscellaneous Omnibus Tax Bill

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Section**Article 1: Sales Tax****Overview**

This article:

Makes the additional modifications necessary for the state to be in compliance with the Streamlined Sales and Use Tax Agreement developed by the Streamlined Sales Tax Project (SSTP), excluding changes that would result in revenue losses.

Delays payment of interest on sales tax refunds until 90 days after the claim for refund has been filed.

Allows motor vehicle dealers to obtain certificates of title for vehicles purchased for resale and pay motor vehicle sales tax on certain vehicles on a reasonable rental basis, rather than the purchase price. It also exempts certain dealer loans of vehicles to service and maintenance customers from the sales tax.

Authorizes a local lodging tax for the city of Newport.

- 1 **Sales to other dealers.** Removes the requirement that limited use vehicle dealers may sell vehicles to customers only by way of vehicle auctioneers, and allows them to sell to other motor vehicle dealers.
- 2 **Registration tax.** Authorizes, but does not require, the motor vehicle registrar to issue certificates of title for dealer vehicles that are exempt from the certificate for title requirements. Present law prohibits the registrar from issuing certificates of title for these exempt vehicles.
- 3 **Sales and use tax returns.** States when sellers who voluntarily register in Minnesota under the Streamlined Agreement, must file a return if they are not filing through a certified provider, using a certified automated computation system, or using a recognized proprietary system. The seller must file a sales tax return annually by February 5 or by the 20<sup>th</sup> of the month after the seller's accumulated Minnesota state and local tax liability is \$1,000 or more.
- 4 **Bad debt loss.** Adds the SSTP definition of "bad debt loss" to the statute. "Bad debt" is the definition under Federal tax law but excludes (1) finance charges and interest, (2) sales or use tax, (3) uncollected amounts on property that remains in the possession of the seller, and (4) expenses incurred in trying to collect the debt. Eliminates the language allowing the bad debt loss to be claimed within one year of the filing of the federal income tax return on which the bad debt loss is claimed.
- 5 **Certified service provider (CSP); bad debt claim.** Adopts the SSTP provision allowing a CSP who collects and remits tax for a seller to file a claim for bad debt loss, provided that the full amount of the credit is passed on to the seller. Currently only the seller may claim a bad debt loss. The definition of CSP was adopted in phase I of the SSTP compliance effort.
- 6 **Notice from purchaser to vendor requesting refund.** Adopts the SSTP requirements regarding purchaser refunds. The purchaser has to provide written notice to the seller with all necessary information regarding the claim. The seller has 60 days to respond. States that a seller is presumed to be following reasonable business practice if it is using a CSP or certified computer system to collect and remit taxes and has remitted all collected taxes. The law is currently silent on what a purchaser must do to request a refund through the vendor.
- 7 **Interest on sales tax refunds.** Provides that interest on all refunds of sales tax bear interest from 90 days after the claim was filed with the commissioner. Under current law, the date at

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which interest on sales tax refunds begin to accrue varies with the type of refund. Refunds of purchaser claims bear interest from 20 days after the month of purchase, and for refunds of capital equipment and building materials interest begins to accrue on the date the claim is filed for some cases and 60 days after the claim is filed for other cases. Effective for claims filed on or after April 1, 2003.

- 8 Sale and purchase; prewritten computer software, telecommunications, and rental of motor vehicles.** Makes three changes:
- Adopts the SSTP definition of “prewritten computer software” as the definition of taxable computer software. This SSTP definition, which is contained in section 0, was developed after phase I of the state’s SSTP compliance effort. It does not change current department interpretation of what computer software is taxable and what is exempt.
  - Eliminates the current description of when telecommunication is subject to the state tax and moves it to a separate section on telecommunications sourcing (section 0); and
  - Provides a rental of a motor vehicle is subject to the sales tax if the customer pays a separately stated amount for the rental or the dealer receives reimbursement under a service contract provided through a third party, regulated by the Commissioner of Commerce (i.e., not a manufacturer’s warranty).
- 9 Sales price.** Modifies the definition of sales price by changing “property” to “personal property” to match the final SSTP version. Does not change current practice.
- 10 Tangible personal property.** Adopts the SSTP definition of “tangible personal property which was enacted after phase I of the state’s SSTP compliance effort. Does not change current practice.
- 11 Lease or rental.** Adopts the SSTP definition of “lease or rental” which was enacted after phase I of the state’s SSTP compliance effort. Does not change current practice.
- 12 Prewritten computer software.** Adopts all the computer-related SSTP definitions that were enacted after phase I of the state’s SSTP compliance effort and are needed to define taxable computer software. Does not change current practice.
- 13 Delivered electronically.** Adopts the SSTP definition of “delivered electronically” used in defining taxable computer software which was enacted after phase I of the state’s SSTP compliance effort. Does not change current practice regarding the department’s interpretation of taxable computer software.
- 14 Load and leave.** Adopts the SSTP definition of “load and leave” used in defining taxable computer software which was enacted after phase I of the state’s SSTP compliance effort. Does not change current practice regarding the department’s interpretation of taxable computer software.
- 15 Delivery charges.** Adopts the SSTP definition of “delivery charges” that was modified after phase I of the state’s SSTP compliance effort.
- 16 Direct mail.** Adopts the SSTP definition of “direct mail” which was enacted after phase I of the state’s SSTP compliance effort. This definition is used in the permanent exemption granted for delivery charges on direct mail contained in section 0 which replaces the temporary exemption enacted last year. Effective for sales on or after January 1, 2004.
- 17 Withdrawal from Streamlined Sales and Use Tax agreement.** Adopts the SSTP provision

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that prohibits a state that withdraws from the agreement from using a seller's registration with the central registration system, or its collection of state taxes under the agreement to determine whether the seller has nexus in the state.

- 18** **Amnesty provisions.** Adopts the SSTP amnesty provisions which allow amnesty for uncollected or unpaid sales and use taxes on sales if the seller was not registered in the state in the year preceding the state participation in the streamlined agreement and if the seller registers within one year of the state's participation in the agreement and continues to pay the tax for at least 3 years after registration. Amnesty does not apply in the case of fraud or if the seller is currently the subject of an audit or has received notice of an audit.
- 19** **Sourcing rules.** Adopts the SSTP sourcing rules which were completed after phase I of the state compliance effort.

**Subd. 1.** States that the general sourcing rules apply to tangible personal property and digital goods and services.

**Subd. 2.** States that the general sourcing rules do not apply to leases and rental, which are subject to separate sourcing rules in subdivision 3. It also requires transfer location points to be disregarded when determining the siting of a digital transfer of a product, and defines when a good or service is "received."

**Subd. 3.** States the SSTP sourcing rules for leases of all tangible personal property except motor vehicles, trailers, semi trailers, and aircraft.

**Subd. 4.** States the SSTP sourcing rules for motor vehicles, trailers, semi trailers, and aircraft that don't qualify as transportation equipment. This applies to all transportation equipment except for interstate railroad equipment, and interstate motor carriers.

**Subd. 5.** States the SSTP sourcing rules for interstate railroad equipment, and interstate motor carriers.

**Subd. 6.** Modifies the existing sourcing rules for multiple-points of use that were adopted by SSTP after phase I of the states compliance effort. This section relates to digital goods including computer software.

**Subd. 7.** Adopts the SSTP sourcing rules for direct mail and states that if the purchaser of direct mail services provides the seller with a direct mail form or proof of direct pay authority, the duty to remit the tax is transferred from the seller to the purchaser.

The language matches current sourcing rules for leases except for subdivision 5. It is not clear that subdivision 5 will have any impact, since interstate motor carriers pay a pro-rated use tax rather than a sales tax and the sourcing rule has no effect on use tax.

- 20** **Telecommunications sourcing.** Adopts the SSTP requirements for sourcing telecommunication services. The only major change from current law is the sourcing of private communications services. Under current law the entire charge for private communication services is taxable in the state if (1) one or more of the termination points are in the state and (2) the service is billed to an account in the state. The SSTP sourcing rule would prorate the charges for private telecommunications services to different jurisdictions based on the number of termination points in each jurisdiction.
- 21** **Clothing.** Minor technical change to conform current language, adopted in phase I of state compliance effort, to current SSTP wording. No change from existing interpretation.

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- 22**      **Loaner vehicles covered by warranty.** Exempts loans of vehicles by a dealer to a customer whose own vehicle is being serviced or maintained from the sales tax if the vehicle is loaned under a warranty contract that was included in the original purchase price (e.g., a manufacturer's warranty, but not an extended warranty that the customer purchased separately).
- 23**      **Inputs to industrial production.** Clarifies current law that inputs used in producing computer software, both prewritten and custom software, are exempt. This is necessary because of the move to define prewritten software rather than computer software in other parts of the statute.
- 24**      **Capital equipment.** Clarifies current law that capital equipment used in producing computer software, both prewritten and custom software, is exempt. This is necessary because of the move to define prewritten software rather than computer software in other parts of the statute.
- 25**      **Delivery or distribution charges; direct mail.** Replaces the temporary exemption for delivery charges on direct mail with a permanent exemption; adopting the language developed by SSTP. No change in current interpretation.
- 26**      **Interest on refunds.** Provides that all refunds of sales tax bear interest from 90 days after the claim was filed with the commissioner. Currently refunds of certain building materials bear interest from 60 days after the claim is filed with the commissioner, while capital equipment and others bear interest from the date the claim is filed. Effective for claims filed on or after the day following final enactment.
- 27**      **Uncollectible debts; offset against other taxes.** Explicitly lays out the rules for deducting uncollectible debt. Only subdivision 2, paragraph (e), and subdivision 3 are specific language requirements under SSTP. No change from current practice.
- 28**      **Tax rate.** Imposes the SSTP requirement that no local jurisdiction may impose a local sales tax at more than one rate. This does not apply to the sale of utilities, motor vehicles, aircraft, watercraft, and manufactured homes. This is not an issue for existing local sales taxes. Lodging, food and beverage taxes are exempt as "tourism" taxes.
- 29**      **Use of zip code.** Changes the imposition of local sales taxes in zip codes that include more than one local jurisdiction. Under current law, the tax would not apply if the purchaser notifies the seller that the delivery address is outside of the taxable jurisdiction. The bill would tax deliveries to the entire zip code area at the lowest local tax.
- 30**      **Effective date notification.** Adopts the notification requirements of SSTP regarding changes in local tax rates. Currently the local jurisdiction has to notify the commissioner of revenue of the imposition of the tax 90 days before the calendar quarter in which it will go into effect. The bill requires the commissioner to notify sellers 60 days before the change is effective and for catalog sellers, 120 days before the change is effective.
- 31**      **Relief from certain liability.** Enacts the SSTP requirement that sellers and certified service providers can not be held liable for incorrectly collected tax if the error is due to information provided by the state.
- 32**      **Motor vehicle sales tax; dealer option.** Authorizes a motor vehicle dealer to pay the motor vehicle sales tax based on the reasonable rental value of the vehicle. This option applies only to a vehicle that meets two criteria. The dealer must
- Purchase vehicle for resale; and

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- Not use it for demonstration purposes.

This option clarifies that the dealer can pay the sales tax on the rental value (e.g., for a fixed period of time) while it owns the vehicle, rather than on the full purchase price. If a dealer fails to report the use tax on the rental, it is presumed that the dealer has elected to pay the motor vehicle tax on the entire purchase price.

- 33 City of Newport; lodging tax.** Allows the city of Newport to impose a lodging tax of up to 4 percent on hotel and motels with at least 25 rooms located in the city. If the city also imposes the tourism lodging tax allowed under general law, the combined rate of the two taxes cannot exceed 4 percent. The city must use the tax proceeds to fund economic development and redevelopment, including the development of open space, parks, and trails. The tax is administered in the same manner as the lodging taxes under general law. Effective upon approval by the Newport city council.

- 34 Repealer.** Repeals

- the definitions of leasing and conditional sales contract (Minn. Stat § 297A.61, subds. 14 and 15) that are unnecessary with the adoption of the SSTP definition of leasing.
- the exemption for used farm tires (Minn. Stat. § 297A.69, subd. 5), effective January 1, 2006. (The dollar limit on this exemption is not permitted under SSTP.)
- the sunset date of December 31, 2005, for section 297A.68, subdivision 36, a sales tax exemption for delivery or distribution charges of printed materials.

## Article 2: Property Tax

### Overview

Changes the interval for appraising property from the current four years to five years.

Requires the department of revenue to prepare a handbook for local boards of appeal and equalization. Local boards must meet certain requirements if they want to continue holding local boards (otherwise powers will be transferred to county).

Exempts the attached machinery and other personal property of proposed electric generation facilities and extends the dates for a few other generation facilities that were authorized in previous years.

Establishes a process for an owner of a residential parcel, located in two school districts, to petition the county to unite the parcel into a single school district.

Allows Cook County hospital's levy limit to be adjusted annually and makes the hospital a municipal corporation and political subdivision.

- 1 Realigning split residential property parcels.**

**Subd. 1. Definitions.** Defines a "split residential property parcel" as a parcel of real estate that is located within the boundaries of more than one school district.

**Subd. 2. Petition.** Allows the owner of a split residential property parcel to

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petition the county auditor to unite the parcel in one school district. The petition must contain:

- description of property;
- which school districts the split parcel is located in;
- the school district in which the owner desires to have the whole parcel transferred into; and
- which school district any students residing on the property are attending.

**Subd. 3. Auditor's duties.** Requires the auditor to issue an order within 60 days of receipt of the petition to transfer the affected parcel to the school district as determined by the county board. The auditor must notify the affected school districts and the commissioner of children, families and learning (CFL).

**Subd. 4. Commissioner.** Requires the commissioner of CFL to modify the records of school district boundaries to conform to the auditors' orders.

**Subd. 5. Taxable property.** Unites the split residential property parcel into a single parcel in one school district. The property's total value is then subject to the taxes imposed by the school district where the entire property is now located. None of the property will pay any school district taxes to the other school district where the parcel had partially been located in.

Effective for petitions filed on or after the day following final enactment. Orders issued before September 15, 2003, will be effective for taxes payable in 2004.

- 2 Payment of property taxes.** Specifies that all manufactured home personal property taxes levied on the unit in the name of the current owner must be paid before the manufactured home's title can be transferred by the registrar of motor vehicles.

The 2002 Omnibus tax law included a provision prohibiting the registrar of motor vehicles from issuing a certificate of title for a manufactured home unless the application is accompanied with a statement from the county auditor/treasurer, stating that all personal property taxes levied on the unit due from the current owner at the time of transfer have been paid. Due to the nature of a manufactured home's mobility and changes in ownership, county officials wanted all personal property taxes levied on the unit in the name of the current owner be paid at the time of transfer (current as well as delinquent taxes).

Effective for certificates of title issued by the department (i.e., registrar of motor vehicles) on or after July 1, 2003.

- 3 Biomass generation facility; personal property exemption.** Extends the date from December 31, 2002, to December 31, 2005, by which a wood-burning biomass generation facility must be under construction to be eligible for a property tax exemption on its personal property.

This exemption was initially enacted by the legislature in Laws 2001, 1<sup>st</sup> special session, chapter 5, article 3, section 13. It provided that the facility must be operational by December 31, 2002. The facility, proposed to be located in northern Minnesota, is designed to use residue wood, sawdust, bark, wood chips and brush to generate electricity. The power generated would qualify to satisfy a portion of the Prairie Island biomass mandate.

- 4 County assessors; class 1b homesteads.** Allows the commissioner of revenue to disclose to

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county assessors, or their designees, a listing of parcels of property qualifying for class 1b homesteads (disabled, blind, paraplegic veterans). Effective the day following final enactment.

**5 Business incubator property.** Extends the property tax exemption for business incubator property for an additional six years. Under current law, the exemption expires after taxes payable in 2005. Extends the sunset date through taxes payable in 2011.

**6 Poultry litter biomass generation facility; personal property exemption.** Extends the construction date for one year by which a poultry biomass generation facility (Fibro Minn; city of Benson, Swift county) was to commence construction to be eligible for a property tax exemption on its personal property. Provides that the construction of the facility must be commenced after January 1, 2003, and before December 31, 2003.

Current law provides that the construction of the facility must begin after January 1, 2000, and before December 31, 2002. The facility is designed to use poultry litter as a primary fuel source and constructed for the purpose of generating power to satisfy a portion of power sold under the Prairie Island biomass mandate under section 216B.2424.

**7 Crown hydro; personal property tax exemption.** Extends the time by one year for Crown Hydro(Minneapolis) electric generating facility to qualify for the property tax exemption on its attached machinery and other personal property.

Legislation enacted in 2002 granted this exemption, but provided that construction of the facility had to commence by January 1, 2004. This grants them an additional year until January 1, 2005.

**8 Electric generation facility; personal property exemption.** (a) Exempts attached machinery and other personal property which is part of a combined-cycle combustion-turbine electric generation facility that exceeds 550 megawatts of installed capacity and that meets the following criteria at the time of construction:

- (1) is designed to utilize natural gas as a primary fuel;
- (2) is not owned by a public utility as defined in section 216B.02, subdivision 4;
- (3) is located within five miles of an existing natural gas pipeline and within four miles of an existing electrical transmission substation;
- (4) is located outside the seven county metro area; and
- (5) is designed to provide energy and ancillary services and has received a certificate of need under section 216B.243.

The proposed generating facility is to be built by Calpine in Mankato, Blue Earth County.

(b) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2007. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Effective for assessment year 2005, taxes payable in 2006, and thereafter.



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**9 Electric generation facility personal property.** (a) Exempts attached machinery and other personal property which is part of a combined-cycle combustion-turbine electric generation facility that exceeds 150 megawatts of installed capacity and that meets the following criteria at the time of construction:

- (1) utilizes natural gas as a primary fuel;
- (2) is owned by an electric generation and transmission cooperative;
- (3) is located within ten miles of parallel existing 24-inch and 30-inch natural gas pipelines and a 345-kilovolt high-voltage electric transmission line;
- (4) is designed to provide intermediate energy and ancillary services, and has received a certificate of need under section 216B.243, demonstrating demand for its capacity; and
- (5) has received local approval from the county and city in which the site is located.

The proposed generating facility is to be built in Rosemount, Dakota county, by Great River Energy Cooperative for Dakota Electric, one of its member co-ops.

(b) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

(c) Provides that the exemption will take effect only if the owner of the facility enters into agreements with the governing bodies of the county and the city where the facility is located. The agreements may include a requirement that the facility must pay a host fee to compensate the county and the city for hosting the facility.

Effective for assessment year 2005, taxes payable in 2006, and thereafter.

**10 Listing and assessment, time.** Requires real property subject to taxation to be appraised at least every five years, instead of every four years as in current law. Effective for 2004 assessment and thereafter.

**11 Assessor's duties.** Requires the assessor to view and determine the market value of taxable real property at maximum intervals of five years, instead of four years as in current law. Effective for 2004 assessment and thereafter.

**12 Agricultural homesteads; special provisions.** Clarifies that to be eligible for the special agricultural homestead, an initial full application must be submitted to the county assessor where the property is located (current practice). However, instead of having to complete the full application each year, it provides that once they have initially qualified, they shall be required to complete only a one-page abbreviated version of the application in subsequent years, provided that none of the following items have changed:

- the day-to-day operation, administration, and financial risks remain the same;
- the owners and persons actively farming the property continue to live within the four

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townships or city criteria and are Minnesota residents;

- the same operator of the agricultural property is listed with the farm service agency;
- a Schedule F or its equivalent income tax form was filed for the most recent year;
- the property's acreage is unchanged; and
- none of the property's acres have been enrolled in a federal or state farm program since the initial application.

Further provides that if any of the specified information has changed since the full application was filed, the owner must notify the assessor, and complete a new application to determine if the property continues to qualify for the special agricultural homestead.

Effective for applications filed for the 2004 assessment and thereafter.

**13 Class 1b, filing requirement for blind, disabled, and paraplegic veterans homesteads; class 1c, homestead resorts.**

**Paragraph (b)** extends the disabled homestead class 1b classification to all homesteads owned by permanently and totally disabled persons regardless of income or regardless of the source of the disability income. Under current law, the property owner's household income must be \$50,000 or less, or their disability income must be from certain public and private sources. Also, transfers the responsibility of certifying to the county assessor which properties qualify for class 1b from the commissioner of economic security to the commissioner of revenue. These changes were made in conjunction with the change in section 15 which eliminates annual certifications on this property. Effective for taxes payable in 2005, and thereafter

**Paragraph (c)** allows the owner of homestead resort property classified class 1c to be a limited liability company or a member of a limited liability company (LLC).

Class 1c property is a classification for homesteaded resorts (sometimes referred to as "Ma and Pa" resorts). Under current law, the resort may be (1) occupied as a homestead by an owner as a sole proprietor, (2) homesteaded by a shareholder of a corporation that owns the resort, or (3) homesteaded by a partner in a partnership that owns the resort. However, the law does not specifically allow this resort property to be homesteaded by a LLC or a member of a LLC and qualify for this classification. This section adds LLC as a qualifying ownership type. Effective payable in 2004 and thereafter.

**14 Agricultural classification.** Clarifies that land enrolled in RIM, CRP or CREP (federal and state conservation programs) only receives agricultural classification if it was classified as agricultural (i) for assessment year 2002, or (ii) in the year prior to its enrollment in the program. Effective for taxes payable 2004 and thereafter.

**15 Class 1b Homestead.** Provides that claimants who are blind, permanently and totally disabled, or paraplegic veteran and qualify for 1b homesteads are not required to file annually to continue their class 1b classification, provided that the property is not sold, there is no change in occupancy, and no change in the occupant's vision. Failure to notify within 60 days of any change in those items results in a penalty. Current law requires an annual

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certification. Effective for taxes payable in 2005 and thereafter.

**16 Local boards; Appeals and equalization course and meeting requirements.**

**Subd. 1. Handbook for local assessors.** Requires the commissioner of revenue by no later than January 1, 2005, to develop a handbook detailing procedure, responsibilities, and requirements for the local boards of appeal and equalization. Provides that the handbook must include:

- the role of the local board in the assessment process,
- the legal and policy reasons for fair and impartial hearings,
- local board meeting procedures that foster fair and impartial assessment reviews and best practices;
- quorum requirements; and
- explanations of alternate methods of appeal.

**Subd. 2. Appeals and equalization course.** Provides that by no later than January 1, 2006, and each year thereafter, there must be at least one member at each local board meeting who has attended an appeals and equalization course developed or approved by the commissioner of revenue within the last 4 years. Allows the course to be offered in conjunction with a meeting of the Minnesota League of Cities or the Minnesota Association of Townships. A review of the handbook (subdivision 1) must be included in the course.

**Subd. 3. Proof of compliance; Transfer of duties.** Provides that any city or town that does not provide proof to the county assessor by December 1, 2006, and each year thereafter, of compliance under subdivision 2 and that it had a quorum at each local board of appeal meeting in the prior year, is deemed to have transferred its board of appeal powers to the county for the following year's assessment.

Requires the county to notify taxpayers when the board for a city or town has been transferred, and prior to the county board of equalization meeting, shall make available a procedure for reviewing those assessments (e.g. open book meetings). This alternate review process shall take place in April or May.

Provides that a local board whose powers have been transferred to the county, may be reinstated upon proof of compliance. Resolution and proofs must be provided to the county assessor by December 1 to be effective for the following year's assessment.

Effective the day following final enactment.

**17 Charter exemption for aid loss.** Allows a municipality to exceed its municipal charter limit or referendum requirements for levy increases if the increased levy is needed to offset reductions in city LGA. The increased levy may not exceed the amount allowed under the state levy limit provisions. Effective for levies payable in 2004 and 2005 only.

**18 Tax court; filing date.** Corrects two dates that were inadvertently not changed when the tax court filing deadline was changed in the 2002 omnibus tax law. Effective for taxes payable in 2003.

**19 Dismissal of petition; exclusion of certain evidence.** Changes the date when certain income and expense information must be provided to the assessor to no later than 60 days after the filing deadline, which is generally April 30<sup>th</sup>. Under current law, it must be

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submitted within 60 days after the petition has been filed.

Allows the court to grant a 30-day extension, if the petitioner was not aware of or informed of the requirement to provide the information. The petitioner will have an additional 30 days to provide the information from the time the petitioner became aware of, or was informed of, the requirement to provide the information. This change will allow the court some flexibility in granting additional time to the petitioner to provide the information, rather than dismissing the petition. These instances will most likely occur in cases when the petitioner is not represented by an attorney (i.e., pro se).

Effective for petitions filed on or after July 1, 2003.

- 20 Claimant; renters' property tax refund.** Clarifies that residents of group residential housing (GRH) facilities with a portion of their rent paid through GRH under chapter 256I must apportion the renters' property tax refund based on the ratio of income from sources other than public assistance to total household income (i.e., both public assistance and all other household income). This apportionment is required of residents of nursing homes, intermediate care facilities, and long-term residential facilities who have a portion of their rent paid through public assistance programs. Current law does not include a specific reference to group residential housing (chapter 256I).

Effective beginning with refund claims based on rent paid in 2003, filed in 2004.

- 21 Cook County Hospital District; operation of district.** Provides that the Cook county hospital district is a municipal corporation and political subdivision of the state. This gives the Cook county hospital district the same status as hospital districts created under the general law. Effective after local approval.

- 22 Cook County Hospital District; levy.** Provides that the maximum levy limit for the Cook County hospital district of \$300,000 is adjusted beginning in taxes levied in 2003, payable in 2004. The levy has been limited to \$300,000 since 1989.

For taxes levied in 2003 (payable 2004) and thereafter, the levy is the previous year's levy limitation multiplied by the lesser of: (a) 103 percent, or (b) the ratio of the most recent annual medical care expenditure category of the revised Consumer Price Index, U.S. citywide average. Effective after local approval.

### **Article 3: Department Income, Corporate Franchise, and Estate Tax Initiatives**

#### **Overview**

This article makes changes to the income, corporate franchise, and estate taxes, as recommended by the department of revenue.

- 1 Return filing requirement.** Requires filing a Minnesota estate tax return by all estates that are required to file a federal estate return. Prior law tied the filing requirement only to the size of the gross estate. The modification will cover situations in which the decedent made federally taxable gifts during their life to the point where their gross estate is less than the federal filing requirement but the gross estate plus adjusted taxable gifts exceeds the federal filing requirements. Effective for estates of decedents dying after December 31, 2002.
- 2 Extension for filing estate tax.** Allows the commissioner to grant extensions for the filing of estate tax returns for up to six months. The current law only allows the commissioner to

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extend the filing date if the federal filing date has been extended, which has the effect of preventing the commissioner from granting extensions when a Minnesota estate tax return is required but a federal return is not. Effective for estates of decedents dying after December 31, 2001.

**3 Liability of third-party vendor for repayment of refund.** Relates to assignment of K-12 education tax credit refunds to third-party vendors (typically through execution of power-of-attorney rather than use of the assignment provision in statute, which limits assignments to nonprofit organizations and lending institutions). Authorizes the Department of Revenue to recover an income tax refund paid directly to a third-party provider, if the K-12 education credit that resulted in the refund is subsequently disallowed. Applies to situations in which the taxpayer qualified for a refund due to a K-12 education credit that was based on purchase of an educational service or product from a third-party vendor who was assigned the taxpayer's refund. Effective for refunds paid to third-party vendors on or after the day following final enactment.

**4 Interest on estate tax refunds.** Changes the date from which the state pays interest on the overpayment of estate tax to the later of

- the date of overpayment,
- the due date of the return (9 months from date of death), or
- the date the estate tax return is actually filed.

Present law provides that the starting date for interest accrual is the later of the date of overpayment or the due date for filing. Effective for estates of decedents dying after December 31, 2003.

**5 Penalty for frivolous returns.** Increases the penalty for filing a frivolous return from the current flat \$500 penalty to the greater of

- \$1,000 or
- 25% of the tax which should have been shown on the return.

Effective for returns filed after December 31, 2003.

**6 Addition for bonus depreciation; individuals.** Provides for individuals that suspended depreciation deductions (e.g., under the passive loss rules) that do not reduce federal taxable income for the taxable year are not required to be added back under the bonus depreciation add-back. The add back would be made when depreciation actually reduces federal taxable income.

**7 Obsolete subtractions.** Deletes two subtractions that will be obsolete after tax year 2003. The first gives self-employed taxpayers a Minnesota tax benefit for 100 percent of their payment of health insurance premiums. Starting in 2003 federal law will give self-employed taxpayers a 100 percent tax benefit at the federal level, which will make the Minnesota subtraction unnecessary. The second allowed a five-year income tax subtraction to low- and middle-income taxpayers who purchased homes in certain areas of Minnesota from 1995 to 1998. The five-year limit on the subtraction will run in 2003 and the subtraction will not be available after 2003. Effective for tax years beginning after December 31, 2003.

**8 Addition for bonus depreciation; corporations.** Provides for corporations that suspended

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depreciation deductions (e.g., under the passive loss rules) that do not reduce federal taxable income for the taxable year are not required to be added back under the bonus depreciation add-back. The add back would be made when depreciation actually reduces federal taxable income.

- 9 Deduction for income received from a foreign operating corporation.** Corrects an erroneous cross reference in the exclusion for foreign sales corporations that qualified as foreign operating corporations in prior tax years.
- 10 Nonresident ratio.** Clarifies that nonresidents and part-year residents must adjust both the numerator and denominator of the ratio of Minnesota assignable federal adjusted gross income to federal adjusted gross income for expenses attributable to U.S. interest income or other income Minnesota does not tax. Effective for tax years beginning after December 31, 2002.
- 11 Inflation indexing of working family credit.** Changes how the Working Family Credit income phaseout floor amounts are indexed for inflation. In 2001 the phaseout floor of the federal earned income tax credit was increased for married taxpayers in order to alleviate marriage penalties in the credit. The federal legislation increased the phaseout floor after it had been indexed for inflation, which means the 2001 federal increase is further increased for future inflation. In the 2001 Minnesota legislation, which was to mirror the federal change, the legislation increased the base amount and then the total was adjusted for inflation, which did not follow the federal approach. The change in this section clarifies that the phaseout floor is adjusted for inflation and then the increased amount is added. This section also provides that the increase is adjusted for inflation starting in 2009 in order to parallel the federal change made in the 2001 federal law. Effective for tax years beginning after December 31, 2002.
- 12 Earned income floor for marriage penalty credit.** Deletes the minimum earned income floor on claiming the marriage penalty credit. This floor was tied to Minnesota's tax brackets in effect in 1999, when the credit was adopted. The brackets have been adjusted for inflation, but the floor has not. Further, the credit table that originally appeared in statute following the income floor has been replaced with a formula, making the floor unnecessary. Effective for tax years beginning after December 31, 2002.
- 13 Marriage penalty credit calculation.** Clarifies that the computation of the marriage credit is based on the income tax brackets as adjusted for inflation. Effective for tax years beginning after December 31, 2002.
- 14 Conditions for assignment of refund.** Requires the Department of Children, Families and Learning to certify that the educational service or product being purchased by a taxpayer qualifies for the education credit, in order to have a valid assignment to the lender financing the purchase of the taxpayer's future income tax refund based upon the credit. Allows the provider of the service or product to appeal a denial to certify using the administrative contested case procedure. Effective for assignments made on or after the day following final enactment.
- 15 Elderly or disabled subtraction.** Deletes a reference to the now obsolete subtraction for early 1980s IRA and KEOGH subtractions from the elderly or disabled subtraction. Also deletes a definition used in the calculation of an additional subtraction amount last available in 1996. Effective for tax years beginning after December 31, 2002.
- 16 Public employee pension exemption from gross estate.** Deletes the exemption from the definition of "gross estate" in the calculation of the Minnesota estate tax the following public employee pensions:

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- Minnesota State Retirement System (MSRS),
- Public Employee Retirement Association (PERA),
- Teachers Retirement Act (TRA),
- Teachers Retirement Fund Association (TRFA), and
- Higher Education Supplemental Retirement Plans (HESRA).

Conforms to federal legislative changes to federal taxable estate made in 2001 or 2002 that expanded the exclusion of 40% of value of land subject to qualified conservation easement to include land farther than 25 miles from a national park or wilderness area or metropolitan area. Effective for estates of decedents dying after December 31, 2002.

- 17** **Estate tax computation.** Provides that the Minnesota estate tax is the maximum state death tax credit allowable under the 2000 federal estate tax law multiplied by a ratio for the Minnesota sitused gross estate over the total federal gross estate. Current law provides that for residents the tax is the greater of the above amount or the state death tax credit allowable minus estate taxes paid to other states. This section also provides that if an estate elects to claim certain administrative expenses for federal and Minnesota fiduciary income taxes, those expenses cannot be claimed as a deduction in computing the Minnesota estate tax. Effective for estates of decedents dying after December 31, 2002.
- 18** **Exemption from estate tax; Minnesota state retirement system.** Removes the exemption from the Minnesota estate tax for public employee pensions received through the Minnesota State Retirement System (MSRS). With the removal of the exemption a pension would only be taxable to the extent it is payable after the deaths of the decedent and his or her surviving spouse. Effective for estates of decedents dying after December 31, 2002.
- 19** **Exemption from estate tax; Public employee retirement association.** Removes the exemption from the Minnesota estate tax for public employee pensions received through the Public Employee Retirement Association (PERA). With the removal of the exemption a pension would only be taxable to the extent it is payable after the deaths of the decedent and his or her surviving spouse. Effective for estates of decedents dying after December 31, 2002.
- 20** **Exemption from estate tax; Teachers Retirement Act.** Removes the exemption from the Minnesota estate tax for public employee pensions received through the Teachers Retirement Act (TRA). With the removal of the exemption a pension would only be taxable to the extent it is payable after the deaths of the decedent and his or her surviving spouse. Effective for estates of decedents dying after December 31, 2002.
- 21** **Exemption from estate tax; Teachers Retirement Fund Association.** Removes the exemption from the Minnesota estate tax for public employee pensions received through the Teachers Retirement Fund Association (TRFA). With the removal of the exemption a pension would only be taxable to the extent it is payable after the deaths of the decedent and his or her surviving spouse. Effective for estates of decedents dying after December 31, 2002.
- 22** **Exemption from estate tax; Higher Education Supplemental Retirement Plan.** Removes the exemption from the Minnesota estate tax for public employee pensions received through the Higher Education Supplemental Retirement Plan (HESRA). With the removal of the exemption a pension would only be taxable to the extent it is payable after the deaths of the decedent and his or her surviving spouse. Effective for estates of decedents dying after December 31, 2002.

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**23**      **Sunset of K-12 credit assignment.** Removes the December 31, 2003, sunset on the assignment of refunds resulting from K-12 education credit.

**24**      **Repealer.** Paragraph (a) repeals

- the requirement that the Minnesota Working Family Credit be reduced by the amount of a taxpayer's Minnesota alternative minimum tax in excess of the Minnesota regular tax computed before the Working Family Credit. This limitation was enacted to mirror a similar federal limitation on the federal earned income tax credit. The federal and Minnesota limitations rarely applied. The federal limitation was repealed in 2001 and was inadvertently omitted in Minnesota's 2001 federal update.
- the indexing of the marriage credit for inflation, which is no longer needed because of the changes in section 0.

Both repeals are effective for tax years beginning after December 31, 2002.

Paragraph (b) repeals obsolete or duplicative corporate franchise tax and withholding tax rules. Effective the day following final enactment.

#### **Article 4: Federal Update**

### **Overview**

This article updates the references to Internal Revenue Code for purposes of the income and franchise taxes, property tax refund, and general tax administration to adopt federal changes made from March 15, 2002 (the last update), through December 31, 2002. These changes are all effective at the same time as the corresponding federal changes were effective.

Changes to the Internal Revenue Code from March 15, 2002, through December 31, 2002, were:

- ▶ Public Law No. 107-181, clarifying the exclusion for parsonage allowances;
- ▶ Public Law No. 107-296, recognizing Johnny Michael Spann Trusts as charitable entities;
- ▶ Public Law No. 107-276, eliminating duplicative information reporting for state and local political campaign organizations; and
- ▶ Public Law No. 107-358, permanently extending the income exclusion for holocaust damages

**1**      **Federal update; administrative.** Updates the administrative chapter Internal Revenue Code reference to federal changes through December 31, 2002. Removes duplicative information reporting for state and local political campaign organizations and parties.

**2**      **Net income.** Conforms to federal changes to the definition of net income. Changes include:

- clarifies that the exclusion for parsonage allowances paid to members of the clergy is limited to the fair rental value of residences occupied by the clergy member;
- provides that Johnny Michael Spann Trusts are charitable entities if the trusts meet certain conditions. These trusts provide for survivors of members of the military or



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federal agencies who have died in terrorist attacks or combating terrorism.

- makes permanent the exclusion of Holocaust damages and restitution from taxable income.

- 3** **Income tax definitions.** Updates the income tax chapter Internal Revenue Code reference to changes made through December 31, 2002. This conforms to changes enacted from March 15, 2002 through December 31, 2002.
- 4** **Federal update; property tax refund.** Updates the property tax refund chapter Internal Revenue Code reference to federal changes through December 31, 2002. This conforms the property tax refund to changes in the definition of net income.

### **Article 5: Department Property Tax Initiatives**

#### **Overview**

This article makes a variety of technical and policy changes in the property tax laws, as recommended by the Department of Revenue.

- 1** **Commissioner's rulemaking authority.** Clarifies that the commissioner of revenue may promulgate rules on nontax laws administered by the commissioner of revenue, as well as rules dealing with state tax laws. This will clarify that the commissioner has rulemaking authority for purposes of administering the Sustainable Forest Incentives Act. Effective the day following final enactment.
- 2** **Notification to taxpayer.** Deletes obsolete mandatory notices which state that taxpayers must appear before local and county boards of equalization before they can appeal a property tax notice, assessment, or order in the small claims division of tax court. Effective the day following final enactment.
- 3** **Comprehensive health association; property tax exemption.** Adds a cross-reference to clarify the exemption of property of Comprehensive Health Associations from the property tax. Effective the day following final enactment.
- 4** **Private cemeteries; property tax exemption.** Adds a cross-reference to clarify the exemption of the property of some private cemeteries from the property tax. Effective the day following final enactment.
- 5** **Western Lake Superior Sanitary Board; property tax exemption.** Adds a cross-reference to clarify the exemption from property tax of property owned or used by the Western Lake Superior Sanitary Board. Effective the day following final enactment.
- 6** **Unfinished sale or rental projects; property tax exemption.** Adds a cross-reference to clarify the exemption of some unfinished sale or rental projects from the property tax. Effective the day following final enactment.
- 7** **Skyways and other structures; property tax exemption.** Adds a cross-reference to clarify the exemption of skyways, underground tunnels, the people mover system and publicly owned parking structures from the property tax. Effective the day following final enactment.
- 8** **Municipal recreation facilities; property tax exemption.** Adds a cross-reference to clarify the exemption of property acquired and used by a city for municipal recreation facilities from the property tax. Effective the day following final enactment.
- 9** **Water and wastewater treatment facilities; property tax exemption.** Adds a cross-reference to clarify the exemption from the property tax of the related facilities owned by water and wastewater treatment providers who have contracted with a municipality to provide capital-intensive public services to the municipality. Effective the day following

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final enactment.

- 10 Taxes paid before recording.** Allows a common interest community (CIC) plan to be recorded without paying all delinquent and current year property taxes in certain cases (see section 0). Effective for deeds or instruments accepted for recording or registration on or after July 1, 2003.
- 11 Local assessor residency requirement.** Strikes the requirement that local assessors be residents of the state. Local assessors are those working for a town or a city, other than a city of the first class. Effective the day following final enactment with language to preserve the validity of any existing employment contract between a Minnesota city or town and a nonresident.
- 12 Assessors; compatible offices.** Provides that the person appointed as county assessor may also serve as the county auditor, county treasurer, or county auditor-treasurer if those offices are appointive, but then must not serve on the county board of appeal and equalization. Also disallows the county board to delegate powers in instances when certain offices are combined. Effective January 2, 2004.
- 13 Compatible offices in counties changing to appointed auditor.** Provides that the person appointed as county assessor may serve as county auditor, treasurer, or county auditor-treasurer in a county in which the office of auditor, treasurer, or auditor-treasurer is changing to being an appointed office within five years. Effective January 2, 2004.
- 14 Incompatible offices.** Provides that appointed county, city, or town assessors may not also serve in certain elected positions in that same jurisdiction. Except as provided in section 13, an assessor who accepts an incompatible elected position is considered to have resigned from the assessor position. Effective January 2, 2004.
- 15 Seasonal residential recreational property; reference.** Replaces “seasonal recreational residential” with “seasonal residential recreational,” the current terminology for this type of property. Effective the day following final enactment.
- 16 Seasonal residential recreational property; reference.** Replaces “seasonal recreational residential” with “seasonal residential recreational,” the current terminology for this type of property. Effective the day following final enactment.
- 17 Seasonal residential recreational property; reference.** Replaces “seasonal recreational residential” with “seasonal residential recreational,” the current terminology for this type of property. Effective the day following final enactment.
- 18 Court expenditures; maintenance of effort.** Corrects an inadvertent error in the county court maintenance-of-effort statute that would have required spending in excess of required amounts. Effective the day following final enactment.
- 19 Aid Offset; out-of-home placement costs.** Changes the date by which the commissioner of human services must certify the previous three years’ average nonfederal costs for out-of-home placements to the commissioner of revenue from July 15, 2004, to July 1, 2003. Effective for aids payable in 2004 and following years. **Note:** Out-of-home placement aid was subsequently repealed in Laws 2003, 1<sup>st</sup> spec. sess. chap. 21, art. 6, sec. 17.
- 20 Utility and railroad valuation appeals.** Clarifies that utilities and railroads whose taxability, classification, and valuation are determined by the commissioner, and whose property is typically located in multiple counties, may appeal their property tax by bringing a single action against the commissioner instead of having to sue in each affected county. Effective the day following final enactment.
- 21 Power line credit; definition.** Specifies that a high voltage transmission line must have a capacity of 200 kilovolts or more in order for property beneath it to qualify for the power line credit. In current law, the voltage is specified by reference to another section of statute,

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which was recently changed without realizing that it affected the power line property tax credit. This change maintains current practice.

- 22 Local boards of appeal and equalization.** Clarifies that local boards of appeal and equalization do not have the authority to remove property from the property tax rolls. Effective the day following final enactment.
- 23 County boards of appeal and equalization.** Clarifies that county boards of appeal and equalization do not have the authority to remove property from the property tax rolls. Effective the day following final enactment.
- 24 State general levy base amount; seasonal recreational property references.** Clarifies that the statutory state general levy amount is the base amount to be used in adjusting the levy annually for inflation. Effective for taxes payable in 2004 and thereafter.
- Changes references from “seasonal recreational” property to “seasonal residential recreational” property. Effective the day following final enactment.
- 25 Seasonal residential recreational property; reference.** Replaces “seasonal recreational” with “seasonal residential recreational,” the current terminology for this type of property. Effective the day following final enactment.
- 26 State general property tax levy; date for certification.** Requires the commissioner of revenue to certify a preliminary rate for the state general property tax levy on or before October 1 for use in the “Truth in Taxation” process. Extends the deadline for certifying a final rate from November 1 to January 1. The current November 1 deadline for the final rate is too early because some of the necessary data is typically not available at that time. Effective for taxes payable in 2004 and thereafter.
- Also makes a technical change to the wording of a reference to “seasonal residential recreational property” (i.e., cabins). Effective the day following final enactment.
- 27 Apportionment and issuance of warrants for payment property taxes.** Eliminates the state from the list of taxing authorities to which funds are apportioned on the various settlement days provided for in general law, and also from the list of authorities for which the county auditor issues a warrant for payment. (See section 0) Effective for taxes payable in 2004 and thereafter.
- 28 Payment of property taxes following settlement days.** Eliminate the state from the list of taxing authorities to which the county treasurer makes payment of property tax collections following issuance of a warrant by the auditor after each of the various settlement days that are provided for in general law. (See section 0) Effective for taxes payable in 2004 and thereafter.
- 29 State general property tax levy; payment from counties.** Adds new language requiring county treasurers and auditors who collect the state levy amounts to transmit those collections to the commissioner of revenue (rather than the commissioner of finance) annually on or before June 29, December 2, and the following January 25 (these dates are the three settlements when the treasurer distributes property tax revenues to all taxing districts). Requires the transmissions to be by electronic means. Effective the day following final enactment, which will affect settlement payments beginning in June 2003.
- 30 Personal property tax liens.** Changes the place for filing lien notices that are related to the collection of personal property taxes of Minnesota residents from their county of residence to the office of the secretary of state. This is consistent with new commercial practices. Effective for liens filed on or after the day following final enactment.
- 31 Seasonal residential recreational property; reference.** Replaces “seasonal recreational”

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with “seasonal residential recreational,” the current terminology for this type of property. Also updates a cross-reference. Effective the day following final enactment.

- 32 **Seasonal residential recreational property; reference.** Replaces “seasonal recreational” with “seasonal residential recreational,” the current terminology for this type of property. Effective the day following final enactment.
- 33 **Alternate sale procedures for tax-forfeited property.** Allows tax-forfeited property that consists of an undivided interest in land to be offered to other owners (who have property adjacent to it) for its appraised value without first having to be offered to the public at an open sale. Effective for sales on or after the day following final enactment.
- 34 **State general property tax levy; payment on tax-forfeited land.** Requires county auditors to pay the unpaid state general property tax levy amount for each parcel of tax-forfeited land to the state from the net proceeds of the sale or lease of that parcel. Effective for taxes payable in 2004 and thereafter.
- 35 **“Claimant” for purposes of the Sustainable Forest Incentives Act.** Clarifies that for purposes of the early termination penalties of the Sustainable Forest Incentives Act, “claimant” also includes persons bound by the covenant. Also clarifies that “one claimant per parcel” means there may be only one claimant for each parcel that has been assigned a unique identification number by the county. Effective the day following final enactment.
- 36 **Sustainable Forest Incentives Act; terminology.** Replaces “property” with “land” to make the statute more precise, consistent and easier to read. Effective the day following final enactment.
- 37 **Sustainable Forest Incentives Act; terminology.** Replaces “property” with “land” to make the statute more precise, consistent and easier to read. Effective the day following final enactment.
- 38 **Sustainable Forest Incentives Act; terminology.** Replaces “property” with “land” to make the statute more precise, consistent and easier to read. Effective the day following final enactment.
- 39 **Sustainable Forest Incentives Act; terminology.** Replaces “property” with “land” to make the statute more precise, consistent and easier to read. Effective the day following final enactment.
- 40 **Sustainable Forest Incentives Act; terminology.** Replaces “property” with “land” to make the statute more precise, consistent and easier to read. Effective the day following final enactment.
- 41 **Sustainable Forest Incentives Act; terminology.** Replaces “property” with “land” to make the statute more precise, consistent and easier to read. Effective the day following final enactment.
- 42 **Sustainable Forest Incentives Act, death of claimant.** Provides that if the original claimant dies, the claimant’s heir, devisee, or estate would have one year to notify the commissioner of its choice to either terminate the program without penalty or continue without a break. If the commissioner is not notified within one year the land will be terminated from the program without penalty. Effective the day following final enactment, except that if a claimant has already died the election may be made within six months of the effective date or within one year of the claimant’s death, whichever is later.
- 43 **Tax increment financing.** Requires development authorities that wish to exercise the “original tax rate” option to certify their election by July 1 in order for the election to be effective for taxes payable the following year. The election allows increments to be computed based on captured net tax capacity and the tax rate in effect when the district was created. Effective for taxes payable in 2004 and thereafter.

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- 44**      **Distribution net tax capacity.** Removes a fiscal disparities adjustment for municipalities with a large amount of manufactured home property which was enacted in 1991 to phase-in a change in the distribution formula. The intended phase-in was completed a few years ago.
- 45**      **Taxes paid before recording.** Changes the current provision which allows an instrument amending or reinstating a common interest community (CIC) plan to be recorded without paying all delinquent and current year property taxes. With the change CICs will be allowed to record documents amending their plans without paying tax only if the unit or common area boundaries are not being changed. Effective for deeds or instruments accepted for recording or registration on or after July 1, 2003.
- 46**      **Use deeds issued prior to August 1, 2001; tax forfeited property.** Requires use deeds issued prior to August 1, 2001, to be treated in the same manner as use deeds issued on or after August 1, 2001. "Use deeds" convey tax forfeited property to a political subdivision of the state, upon approval of the county board, for a specific public use without requiring a payment of money for the property.

In 2001 the legislature enacted a three year time period upon which if the property (which had been tax forfeited but subsequently a use deed was issued to one of the political subdivisions) was not used by that recipient local government for its proposed public use in that 3 year period, then the property had to be conveyed back to the state and reacquired specifically for that new public use. However, the 2001 law change was effective only for deeds issued on or after August 1, 2001.

This change subjects use deeds issued prior to August 1, 2001, to be under the same rules as those issued after August 1, 2001, **except** that they are given an additional 3 years. The changes are effective August 1, 2006.

- 47**      **"Use-deeds" for tax forfeited property.** Makes a conforming change related to the change in section 0.
- 48**      **Out-of-home placement cost aid.** Clarifies that the 2002 amendments that delayed payment of this aid until 2004 were effective upon enactment. Effective retroactively to May 16, 2002, and thereafter. **Note:** Out-of-home placement aid was subsequently repealed in Laws 2003, 1<sup>st</sup> spec. sess. chap. 21, art. 6, sec. 17.
- 49**      **Pre-1940 housing percentage.** Clarifies that 2003 local government aid was to be calculated based on the pre-1940 housing percentages reported in the 1990 federal census.
- 50**      **Repealer.** Paragraph (a) repeals an obsolete section concerning the assessor's assessment books, which are now prepared electronically.

Paragraph (b) repeals new construction low-income housing aid. The aid is based on the value of class 4d properties constructed after 1998. However, beginning in payable 2004, class 4d no longer has a separate class rate or qualification requirements. Effective for aid payable in 2004 and thereafter.

Paragraph (c) repeals obsolete and duplicative railroad valuation rules. Effective the day following final enactment.

**Section****Article 6: Department Sales and Use Tax Initiatives****Overview**

This article makes a variety of technical and policy changes in the sales tax, as recommended by the department of revenue. It reorganizes and simplifies the exemptions for agricultural products and farm equipment.

- 1 Purchaser refunds.** Relaxes the requirements for taxpayers to file a sales tax purchaser refund claim. Currently, taxpayers must be registered and have a claim in excess of \$500 to file a purchaser refund claim. With these changes taxpayers who were registered during the period of the overpayment may file a purchaser refund claim, and taxpayers may aggregate the amounts of a purchaser claim and a capital equipment refund claim to satisfy the \$500 requirement. Effective for claims filed on or after the day following final enactment.
- 2 June accelerated underpayment penalty; safe harbor.** Makes a correction to clarify that the safe harbor percentage for tax year 2003 is 75 percent. This is consistent with other provisions in effect for tax year 2003 and with Department of Revenue policy.
- 3 Penalty for incorrectly completing return.** Provides a five percent penalty for failing to report local sales tax on a return or for failing to report local sales tax on a separate line on the return. Imposes a new \$500 penalty for failing to report location information on a consolidated tax return. In addition, the commissioner may revoke the taxpayer's privilege to file a consolidated tax return. Effective for returns filed after June 30, 2003.
- 4 Sales and purchases; services.** Makes three changes:
  - Clarifies that only non-residential parking services are subject to the sales tax.
  - Clarifies the status of services added to the sales tax base in 1987 by providing that all references to tangible personal property shall also include the 1987 taxable services unless otherwise provided,
  - services performed by a partnership that is owned or controlled by another partnership are not taxable, and
  - services performed by members of an affiliated group of corporations for other members of the group are not taxable.
  - Clarifies that the sales taxation of telecommunications is broader than telephone service. The amended telecommunications language was repealed and moved to a new section in article 1, sections 8 and 20. This portion of this section will be repealed in the revisor's bill next session.Effective the day following final enactment.
- 5 Farm machinery.** Clarifies that machinery and equipment used directly and principally in agricultural production qualify as farm machinery for exemption from the sales tax. Other items exempted from sales tax under the current definition of farm machinery are moved to other sections of statute; the intent is to retain the same exemptions as in current law but to improve how the exemptions are organized in statute. Effective for sales and purchases made after June 30, 2003.
- 6 Food sold in vending machines.** Provides that food sold through vending devices includes food sold through honor boxes. Effective for sales and purchases made on or after the day following final enactment.

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**7 Agricultural production.** Adds a definition of “agricultural production” to the section of statute providing definitions for the sales tax. This is part of the reorganization of exemptions relating to farming. The definition of “agricultural production” in current law is in the section dealing specifically with farm exemptions. Effective for sales and purchases made after June 30, 2003.

**8 Exemption certificates.** Provides that

- a seller is relieved from collecting sales tax if the seller receives a fully completed exemption certificate from the purchaser at the time of the sale.
- exemption certificates not accepted at the time of the sale but that are provided to the commissioner during an audit are subject to verification by commissioner as to their validity.
- if the seller does not provide the certificates within 60 days after the commissioner requests them, the sale will be considered to be taxable.

Also adopts the SSTP language that states that a retailer is not relieved from liability for non-collection of tax if the retailer fraudulently fails to collect the tax or solicits purchasers to unlawfully claim an exemption.

Effective for exemption certificates received for sales occurring after June 30, 2003.

**9 Food and food ingredients.** Clarifies that candy, soft drinks, and food sold in vending machines and prepared food are considered food items but that they are not included within the exemption. Effective the day following final enactment.

**10 Capital equipment.** Makes two changes:

- Clarifies that concrete ready-mix equipment, regardless of whether mounted on the vehicle, qualifies as capital equipment for a sales tax exemption, and that the vehicle on which the equipment is mounted is not exempt. Also clarifies that the lease of ready-mix trucks remains exempt.
- provides a definition of the integrated production process and an explanation of when the process begins and ends for manufacturing, mining, fabricating, and refining.

Effective for sales and purchases made after December 31, 2003.

**11 Transition provisions for pre-existing contracts.** Provides for a transition period of six months when the sales tax is imposed on additional goods or services and the bill imposing the tax does not provide a transitional period for pre-existing construction contracts or bids. The goods or services newly subject to the tax would remain exempt under pre-existing contracts or bids for a six-month transition period from the date of the law change. Specifies conditions that must exist before the six-month transition period applies. Effective the day following final enactment.

**12 Agricultural production.** Strikes the definition of agricultural production in the section that deals with farm exemptions. Section 0 moved this definition to the general definitions section of the sales tax statute as part of the reorganization of exemptions relating to farming. Effective for sales and purchases made after December 31, 2003.

**13 Repair and replacement parts.** Expands the current exemption for “farm machinery repair parts” to apply to “repair and replacement parts” and includes farm machinery, logging

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equipment, maple syrup harvesting equipment, and aquaculture production equipment. Repair and replacement parts for all of these types of equipment are exempt under current law. This is part of the reorganization of exemptions relating to farming. Effective for sales and purchases made after June 30, 2003.

- 14 Machinery, equipment, and fencing.** Expands the current exemption for “farm machinery” to apply to “machinery, equipment, and fencing,” and includes farm machinery, logging equipment, fencing for cervidae, primary and backup generators, aquaculture production equipment, and maple syrup harvesting equipment. All of these items are exempt under current law. This is part of the reorganization of exemptions relating to farming. Effective for sales and purchases made after June 30, 2003.
- 15 Noncollector vehicles.** Removes the requirement for the department of public safety to prepare and distribute an above-market list of automobiles. The requirements for a vehicle to qualify as a noncollector vehicle remain the same and transfers of vehicles that are ten years or older and that are not above-market vehicles will continue to be taxed at \$10. Effective for vehicles purchased after June 30, 2003.
- 16 Collector vehicles.** Makes a technical conforming change to reflect that the department of public safety would no longer be designating above-market automobiles. Effective for vehicles purchased after December 31, 2003.
- 17 Ordinary course of business.** Provides that only vehicles purchased by motor vehicle dealers for resale in the ordinary course of business are exempt from motor vehicle sales tax when purchased by the dealer. Vehicles used by the dealer for purposes other than resale or demonstration are subject to motor vehicle sales tax. Effective the day following final enactment.
- 18 Repealer.**

Paragraph (a) repeals Minn. Stat. § 297A.72, subd. 1, regarding sales tax exemption certificates, and moves the language to Minn. Stat. § 297A.665. Effective for exemption certificates received for sales occurring after June 30, 2003.

Paragraph (b) repeals Minn. Stat. § 297A.97, which provided that non-Minnesota retailers did not have to collect local sales taxes. Effective for sales and purchases made after December 31, 2003.

Paragraph (c) repeals obsolete or duplicative sales and use taxes rules. Effective the day following final enactment.

## **Article 7: Department Special Taxes Initiatives**

### **Overview**

This article makes a variety of technical and policy changes to the special taxes (MinnesotaCare taxes, hazardous waste generator tax, cigarette and tobacco products taxes, and the insurance premiums tax), recommended by the Department of Revenue.

- 1 Penalties; enforcement; hazardous waste generator tax.** Clarifies that the penalty provisions under the hazardous waste generator tax are the same as those that apply to the corporate franchise taxes. Effective the day following final enactment.
- 2 Patient services definition; gross earnings tax.** Excludes certain services from the



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definition of patient services. Under current law, taxpayers providing these services must report their gross revenues and then are allowed an exemption. Under the proposed change, community residential mental health facilities, community mental health centers, taxpayers who provide community support programs and family community support programs, assisted living programs, congregate housing programs, and hospice care services would no longer be required to report gross revenues they receive for these services. Effective for gross revenues received after December 31, 2002.

**3 Patient services definition; exemptions.** Removes the exemption for services provided by community residential mental health facilities, community mental health centers, taxpayers who provide community support programs and family community support programs, assisted living programs, congregate housing programs, and hospice care services, since revenues from these services will be excluded from the definition of gross revenues under section **Error! Unknown switch argument..** Effective for gross revenues received after December 31, 2002.

**4 Unlicensed seller; cigarette and tobacco tax.** Deletes the reference to local licensing authorities from the definition of unlicensed seller. Effective July 1, 2003.

**5 Wholesale sales price; cigarette and tobacco tax.** Clarifies that “wholesale price” under the tobacco products tax means the manufacturer’s price at which tobacco products are made available for sale to all distributors. Effective July 1, 2003.

**6 Tobacco products use tax.** Clarifies that the consumer exemption from the tobacco products use tax extends to the “possession” of tobacco products as well as their use and storage. Changes the exemption from specified quantities of tobacco products to the exemption of products with an aggregate cost in a calendar month of \$100 or less. Effective July 1, 2003.

**7 Penalties for failure to file or pay; cigarette and tobacco tax.** Clarifies that consumers are subject to misdemeanor penalties for failing to file or pay the cigarette and tobacco tax. Effective for acts committed on or after July 1, 2003.

**8 Penalties for knowing failure to file or pay; cigarette and tobacco tax.** Clarifies that consumers are subject to gross misdemeanor penalties for knowingly failing to file or pay the cigarette and tobacco tax. Effective for acts committed on or after July 1, 2003.

**9 Penalties for false or fraudulent returns; cigarette and tobacco tax.** Clarifies that consumers are subject to felony penalties for

- filing reports or returns or
- aiding and abetting in the preparation of reports or returns

that are known to be fraudulent or false concerning a material matter. Effective for acts committed on or after July 1, 2003.

**10 Unstamped cigarettes; unstamped tobacco products.** Removes consumers and licensed distributors from the criminal provisions for possession of unstamped cigarette and untaxed tobacco products. Raises the tobacco products tax thresholds to make them roughly equivalent to the cigarette tax thresholds. Adds a presumption that an individual is not a consumer if in possession of at least 5,000 unstamped cigarettes or more than \$350 worth of untaxed tobacco products. Effective for acts committed on or after July 1, 2003.

**11 Purchases from unlicensed sellers; cigarette and tobacco tax.** Removes references to consumers, clarifies that retailers and subjobbers can purchase cigarettes and tobacco products only from licensed distributors or subjobbers, and raises the penalty thresholds for purchases from unlicensed sellers. Effective for acts committed on or after July 1, 2003.

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- 12**      **Gross premiums; definition.** Includes a new workers compensation surcharge created in 2002 in the definition of gross premiums for insurance premiums tax. Effective the day following final enactment.
- 13**      **Offsets against premium taxes.** Provides a reference to the insurance premiums tax offset for joint underwriting assessments. Effective the day following final enactment.
- 14**      **Revisor's instruction.** Instructs the revisor to delete references to chapter 294 (gross earnings tax) from the next edition of Minnesota Statutes. This chapter is repealed in section **Error! Unknown switch argument..** Effective day following final enactment.
- 15**      **Repealer.**

Paragraph (a) repeals Minn. Stat. ch. 294. This chapter deals with the gross earnings tax, which is no longer in effect. Effective day following final enactment.

Paragraph (b) repeals obsolete petroleum tax rules regarding the identification of pumps, the ethanol development fund, and the road tax. These items are now administered by other departments, not the Department of Revenue. Effective the day following final enactment.

## **Article 8: Department Collections and Compliance Initiatives**

### **Overview**

This article makes a variety of changes, recommended by the department of revenue, to the laws governing the authority of the commissioner of revenue to collect taxes. It imposes penalties on nuisance common law liens filed against department employees, provides for attachment of insurance proceeds, and allows posting notices of sales on the Internet.

- 1**      **Penalty for filing certain documents.** Current law prohibits filing nonconsensual common law liens (liens not authorized by court order or statute) against certain public officials and employees. This section addresses such liens filed against the commissioner of revenue or revenue employees. It allows the commissioner to impose a \$1,000 penalty per document filed, payable to the general fund. It makes a penalty order reviewable administratively and appealable to the tax court. The penalty in this section is in addition to other remedies that may be available.
- Effective for documents filed on or after July 1, 2003.
- 2**      **Lien attachment to insurance proceeds.** Provides that liens imposed under section 270.69 attach to the proceeds of property with the same priority that the lien has with respect to the property itself. "Proceeds of property" is defined to include insurance proceeds arising from the loss or destruction of the property.
- Effective for all liens whether imposed prior to or on or after the day following final enactment.
- 3**      **Notice of sale.** Amends the statute on notice of sale by DOR of seized property. Provides that for purposes of public notice of the sale, the Internet is a public posting place.
- Effective for notices of sales posted on or after the day following enactment.
- 4**      **Sale of seized securities.** Specifies a procedure for selling nonexempt publicly traded securities that are levied on by DOR. Provides that if the securities are worth not more than

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the tax obligation, the person who possesses or controls the securities will sell them in a commercially reasonable manner and transfer proceeds, less normal commissions and fees, to DOR. Provides that if the securities are worth more than the obligation due, the owner may instruct the person who possesses them which securities to sell. If the owner does not provide such direction, the person in possession is to sell the most recently acquired securities first. After liquidation and deduction of normal commissions and fees, the person in possession transfers to DOR the amount due.

Effective for sales of securities due on or after enactment.

- 5** **Definitions.** Amends the definition of license, which currently “includes” a contract for space rental at the state fair. Adds to this: any permit issued by the state or a local unit of government to carry out an occupation or do business.

Effective immediately.

- 6** **Claimant agency; revenue recapture.** Adds the Minnesota collection enterprise for the purpose of collecting the collection costs imposed under the debt collection act as a claimant agency under the revenue recapture act.

- 7** **Limitation in transferee and fiduciary liability.** Clarifies that overpaid property tax refunds are personal debts of fiduciaries and are recoverable from transferees and fiduciaries.

Effective for taxes imposed and property tax refunds claimed on or after the day following final enactment.

- 8** **Limitation in transferee and fiduciary liability.** Clarifies that overpaid property tax refunds paid are personal debts of fiduciaries and are recoverable from transferees and fiduciaries.

Effective for taxes imposed and property tax refunds claimed on or after the day following final enactment.

- 9** **Application to court for enforcement of subpoena.** Provides that disobedience of a commissioner’s subpoena in connection with a tax audit of businesses located outside the state is punishable by the district court in Ramsey County in the same manner as contempt of district court. In addition, lets the court issue any order it deems necessary to enforce compliance with the subpoena.

Effective immediately.

- 10** **Access to records of businesses located outside the state.** Lets DOR audit records of businesses located outside the state in order to determine whether the business is required to file a state tax return. Lets DOR subpoena records and files. Provides for serving the subpoena on the secretary of state, along with the company’s address and a \$50 fee. Requires the secretary to forward the subpoena. Requires DOR to pay the reasonable costs of producing subpoenaed records if (1) the party cannot produce without undue burden, and (2) examination shows the party is not required to file a tax return.

Effective immediately.

- 11** **Penalty.** Adds a penalty for violating a court order to comply with a DOR subpoena under sections 0 and 0. Requires the court to impose \$250 a day up to \$25,000, upon request of DOR. Requires the court on request to enter the penalty as a judgment and makes the

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penalty payable after judgment is entered.

Effective for violations of court orders to enforce subpoenas issued on or after enactment.

- 12 Sales tax permit cancellation.** Adds cancellation for issuance pursuant to Minn. Stat. § 297A.86, subd. 2, paragraph (a), to the list of possible grounds for cancellation of a taxpayer's sales tax permit.

Effective for cancellations of permits done on or after the day following final enactment.

- 13 Repealer.** Repeals a sunset on a law that allows publication of a list of delinquent taxpayers who have owed at least \$5,000 for at least 180 days and against whom a judgment has been entered or tax lien has been filed.

## **Article 9: Central Lakes Region Sanitary District**

### **Overview**

This article establishes the Central Lakes Regional Sanitary District in Douglas County to replace an existing joint powers board. The district is established for the townships of Carlos, Brandon, La Grand, Leaf Valley, Miltona, and Moe, and authorizes later additions or withdrawals. The article is modeled after other special laws for regional sanitary districts. Effective the day after the fourth township (there are six) completes local approval.

- 1 Definitions.** Defines for the purposes of this article the following terms: acquisition and betterment; agency (Minnesota pollution control agency); agricultural property; current costs of acquisition, betterment, and debt service; district disposal system; Central Lakes Region Sanitary District or District; interceptor; local government unit or government unit; local sanitary sewer facilities; municipality (statutory or home rule charter city or town in the district); person; pollution and sewer system; sanitary sewer board or board; sewage; total costs of acquisition and betterment and costs of acquisition and betterment; treatment works and disposal system.
- 2 Sanitary sewer board.** Establishes the Central Lakes Region Sanitary District as a public corporation and political subdivision. Provides for the appointment and qualifications of the board members. Provides for terms of office, filling vacancies, removing members, oath of office, and compensation.
- 3 General provision for organization and operation of board.** Specifies how meetings may be called, what constitutes a quorum. Provides for selection of officers, regular meetings, special meetings, vote required to act. Requires meetings to be open to the public. Provides for the members to select a chair from among themselves. Specifies the term and duties of the chair. Provides for the secretary and treasurer of the board, specifies duties. Provides that the general manager and other district employees are public employees. Requires the board to adopt resolutions or bylaws governing board actions, personnel administration, finances, etc. Permits the board to obtain surety bonds for its officers and employees, and to procure property and liability insurance.
- 4 Comprehensive plan.** Requires the board to adopt a comprehensive plan for the collection, treatment, and disposal of sewage in the district. Specifies the contents of the plan. Requires a public hearing on the proposed plan prior to adoption of the plan. Requires district board

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approval of local new or substantially altered or improved sewers or disposal facilities to the extent they affect the board's responsibilities.

- 5 **Sewer service function.** Provides for the district board to assume ownership of all existing interceptors and treatment works, and to build others, needed to implement the board's comprehensive plan. Provides for transfer and payment between the local governments and the board. Provides for assumption of existing debt. Terminates the existing joint powers board by December 31, 2004. Permits the board to cancel existing contracts between local governments related to the disposal system.
- 6 **Sewage collection and disposal; powers.** Permits the discharge of treated water into the waters of the state. Permits the board to require persons in the district to connect to and discharge into the system. Permits the board to regulate connections to and discharges into the system.
- 7 **Budget.** Requires the board to adopt an annual budget and specifies the contents of the budget. Requires truth-in-taxation notice and hearing.
- 8 **Allocation of costs.** Provides for current costs (the costs of administration, operation, maintenance, debt service and costs of acquisition and betterment of the system to be paid during year and not with debt) to be allocated among the local governments or users equitably and by resolution of the board.
- 9 **Government units; payments to board.** Requires local governments in the district to pay the board as required by the board. Gives the board the powers of a statutory city, and the powers of a municipality with regard to eminent domain, special assessments for local improvements, public indebtedness, taxation for a disposal system, municipal waterworks, sewers, drains, and storm sewers, and joint powers. Permits the board to levy taxes in the district for payment of current costs, free from any limit.
- 10 **Public hearing and special assessments.** Requires public notice and hearing before projects are begun. Requires notice to benefited properties of proposed assessments. Requires a project feasibility report before the hearing is held. Permits the board to take emergency action. Permits the board to specially assess part or all of a proposed project.
- 11 **Initial costs.** Provides for local governments to help defray the start up costs and payment of debt upon acquiring existing systems. Permits the board to impose a property tax levy for these costs.
- 12 **Bonds certificates and other obligations.** Permits the board to issue short-term debt and debt for emergency situations. Authorizes general obligation bonding for the disposal system without an election.
- 13 **Tax levies.** Permits the board to levy to pay debt and as otherwise authorized in the article.
- 14 **Depositories.** Requires the board to designate one or more banks or trust companies as the official depository of money for the board.
- 15 **Money; accounts and investments.** Directs how money must be handled and accounted for. Requires an audit of the district's books and records.
- 16 **General powers of the board.** Provides the board with all powers necessary or convenient to discharge its duties, including but not limited to those listed in this section relating to lawsuits; contracts; adopting rules and setting penalties; accepting gifts, grants, or loans; entering into joint powers agreements; study and investigation; procurement of professional services; acquiring and disposing property; use of rights of way; and agreements with other

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local governments, the state or federal government.

- 17 Local facilities.** Describes the responsibilities of local governments and the board for local sanitary sewer facilities. Provides for allocation of current costs.
- 18 Service contracts with governments outside district.** Permits the board to furnish services to other governmental entities outside the district under contract.
- 19 Construction, materials, supplies, equipment; contracts.** Requires Minnesota pollution control agency approval for acquisition and betterment projects. Provides that the uniform municipal contracting law applies.
- 20 Annexation, withdrawal of territory.** Permits any city or town in Douglas county to join the district. Permits a city or town to withdraw from the district with two-years' notice.
- 21 Property exempt from taxation.** Exempts the district's property from state or local taxes, but requires the district to pay special assessments.
- 22 Relation to existing law.** Provides for this article, when enacted, to prevail over other law, but not the powers of the pollution control agency.
- 23 Application; effective date; local approval; opt in or out.** Applies to townships of Brandon, Carlos, LaGrand, Leaf Valley, Miliona, and Moe, in Douglas county.

Effective the day after the fourth of the townships listed completes local approval. After that, the article is effective for any other townships listed, the day after completing local approval. Allows a township listed that does not complete local approval to petition for annexation to the district at a later time, as provided in the article.

### **Article 10: Tax Increment Financing Overview**

This article imposes a 180 day statute of limitations on actions to challenge the creation or modification of a tax increment financing district. In addition, the article makes a number of changes in the tax increment financing law.

- 1 Interfund loans.** Clarifies that the interfund loans only qualify as TIF "bonds" if they meet the statutory requirements (i.e., they must be approved by resolution and have their terms documented in writing).
- Effective date:** Same as the law adding interfund loans to the definition of tax increments
- 2 Definition of municipality.** Clarifies that the county is the only municipality for county TIF districts and that for a multi-county authority (e.g., a multi-county HRA), the municipality is determined by the location of the TIF district.
- Effective date:** Same as the original effective date for the TIF act
- 3 Cross reference.** Corrects an erroneous cross-reference in the definition of redevelopment districts. This section also codifies part of the holding in the *Walser Auto Sales, Inc. v. City of Richfield*, i.e., that the failure of a building to be disqualified under the cost to correct test is a necessary, but not a sufficient, condition to determine the building is substandard.
- Effective date:** Both provisions are effective retroactive to the effective date of the underlying provisions.

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- 4**      **Definition of increment.** Clarifies that repayments of both principal and interest on loans made out of increments are also increments.
- Effective date:** Same as the original provision that made loan repayments increments.
- 5**      **Qualified housing districts.** Adds a definition of “qualified housing district” to the statute. This definition was contained in the state aid reduction statute (section 273.1399), which was repealed in 2001. Several provisions of the law remained keyed to this definition. The definition is similar to the language of the repealed definition with two exceptions:
- The income limit for owner occupied housing is increased from 70 percent of the median income to 85 percent.
  - Rental housing projects need only meet the rent and income restrictions under the federal low-income housing tax credit. Prior law required all of the requirements of federal law to be satisfied.
- Effective date:** Same as the effective date of the repeal of section 273.1399
- 6**      **Administrative expenses.** Requires TIF plans to separately state the amount of administrative expenses that will be paid with increments and non-increment revenues.
- Effective date:** Plans and modifications approved after June 30, 2003
- 7**      **But-for test.** Makes five changes in the law requiring “but-for” findings before a municipality (usually a city) approves a TIF plan and the creation of a TIF district:
- Corrects a cross reference to clarify that qualified housing districts are exempt only from the but-for finding on market value, not the entire but-for finding requirement.
  - Requires written documentation of the market value finding. This written documentation must include the city’s estimate of the two market values (with and without TIF) and the present value of the projected increments. These are the three essential components to the but-for market value finding.
  - Clarifies that the “site” for the but-for findings means the parcels on which the developments to be assisted with TIF are located. The definition of “site” is retroactive to the original effective date of the market value finding, since it confirms the original intent and is the way the Office of State Auditor and most practitioners have been interpreting the law.
- Effective date:** TIF plans approved after June 30, 1995
- 8**      **Plan modifications, administrative expenses.** Makes changes in the plan modification statute to be consistent with administrative expenses rules set out in section 0 (i.e., that the administrative expenses must be allocated between increment and non-increment revenues). The rest of the changes in the section are intended to make the statute more readable without making any substantive changes.
- Effective date:** Plan amendments adopted after June 30, 2003. The effective date provision also authorizes cities to make plan amendments adopting the new rules for administrative expenses without going through the published notice and hearing requirements. If a city does not elect to go through this process, a safe harbor is provided, so long as the district does not spend more than 9 percent of its increment on administrative expenses.
- 9**      **Reporting requirements.** Deletes the requirement that the annual financial report include the amount budgeted under the tax increment financing plan and adds a requirement that the

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report include the estimated amount of the project cost, including administrative expenses, that will be paid with tax increments.

**Effective date:** Reports due in calendar year 2004

**10 Pre-1979 districts, use of increments.** Authorizes or clarifies the use of increments from these districts for the following purposes:

- County administrative expenses
- Transfers of increments to pay deficits in other districts caused by the 2001 property tax changes
- Advances made by the authority or municipality to pay pre-1990 bonds

Under present law, the authority must pay county administrative costs using other revenues. The section also clarifies the interaction between the duration limit for pre-1979 districts and the deficit reduction pooling provisions. (The deficit reduction pooling provisions clearly provided that they apply to pre-1979 districts; the law is unclear as to how the spending limits in this section interact with the authority to use pre-1979 for deficit reduction pooling.) It provides that the increments must be used first to pay the pre-1979 district's bonds and county administrative expenses. If in any year increments remain after paying these costs, the excess can be used under the deficit reduction pooling provisions. The section also allows the authority to recover other moneys (e.g., a property tax levy) advanced to pay pre-1990 bonds after June 1, 2002 (e.g., to make up a deficit caused by the 2001 property tax changes).

The section also modifies the rules on refunding pre-1979 bonds and generally allows refunding of these bonds. Under present law, a refunding may not increase the average maturity of the bonds, even if they realize interest savings on a present value basis.

**Effective date:** Day following final enactment

**11 Excess increments.** Makes several changes in the excess increment statute. It requires the authority to annually determine if a district has excess increments, as of the end of the calendar year. It clarifies that the city receives distributions of excess increments for county TIF districts. Finally, it adds a definition of excess increments. Excess increments are essentially the amount of increments collected through the end of the calendar year, minus all of the costs authorized in the TIF plan to be paid with increments. The following adjustments are made:

- Any amounts distributed in an earlier year as excess increments to the taxing districts are deducted in making the computations. This prevents double counting of these moneys.
- Authorized costs in the TIF plan for the district are reduced by three amounts:
  - 1. The portion of the costs paid by non-increment revenues
  - 2. Other revenues dedicated or otherwise required to be used to pay those costs (and that have not already been used to pay those costs and thus are not included in #1)
  - 3. Debt service payments on bonds to be made in future years (the statute permits use of excess increments to prepay bonds, if the city chooses).

**Effective date:** Applies to all TIF districts and to determinations of whether there are excess



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increments made after August 1, 2003.

- 12 Administrative expenses.** Clarifies that the limit on administrative expenses only applies to clause (1) increments (i.e., the amount of taxes paid by the district's captured tax capacity).  
**Effective date:** Retroactive to the initial effective date of the TIF act
- 13 Qualified housing districts.** Eliminates a statutory cross reference to qualified housing districts which was repealed in 2001.  
**Effective date:** Retroactive to the repeal of section 273.1399
- 14 Pooling, definition of increments.** Limits the restrictions on pooling and other uses of increment to the clause (1) definition of tax increments (i.e., property taxes paid by captured tax capacity only).  
**Effective date:** Retroactive to the original effective date for the pooling rules
- 15 Five-year rule.** Provides that the five-year rule does not apply to expenditures under the expanded pooling rules for housing purposes by other types of districts.  
**Effective date:** Expenditures made after June 30, 2003
- 16 Pooling for deficit reduction.** Eliminates the requirement that the Department of Revenue approve pooling for deficits. This requirement was added to protect the state grant funds. The legislature repealed the 2001 fund and the 1997-98 fund expired.  
**Effective date:** January 2, 2002
- 17 Adjustments to original net tax capacity.** Provides that the adjustments to original net tax capacity apply to all districts. These adjustments are made for (1) legislative changes in the class rates and (2) changes in the use of property (e.g., residential property becoming commercial). Apparently some county auditors have not adjusted original net tax capacity on pre-1988 districts for the 2001 property tax changes, while others have. This would require the adjustments to be made for all districts.  
**Effective date:** Classification changes enacted after May 1, 1988 (the original effective date of the provision, thus picking up the 1997, 1998, and 2001 property tax class rate changes), and use changes occurring after December 31, 2002
- 18 Decertification.** Clarifies that a decertification request can specify a date for decertification. A literal reading of the statutory language would require decertification to occur on receipt of the request, even if it specified a later date.  
**Effective date:** All districts, including pre-1979 districts
- 19 Abatement of penalties.** Extends the court's authority to abate penalties to hardships that would fall on the TIF authority (as opposed to the city) and clarifies that the authority applies to sins of omission, as well as commission. To abate penalties for TIF violations, the court must determine that the action was taken in good faith and imposing the payment requirement would work an undue hardship.  
**Effective date:** Retroactive to the effective date for the original provisions (violations after December 31, 1990)
- 20 Limitations on actions.** Imposes a statute of limitation on legal actions challenging determinations and findings that are part of the adoption or modification of a tax increment financing plan. An action must be filed by the later of the (1) 180 days after approval of the

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plan or modification or (2) 90 days from the request for certification.

- 21 Interfund loans.** Permits an authority to pass a general resolution authorizing interfund loans. Under present law, each loan or advance would be required to be approved by a separate resolution. Each loan or advance will still require a separate written agreement setting out its terms, entered before the advance or loan is made, but the governing body will not need to pass a separate resolution before the authority does so, if a general resolution is in place permitting the interfund loan. The section also clarifies that the interest rate limit on interfund loans (keyed to the floating rates on either judgments or unpaid taxes) is a fixed rate set at the time the loan is made, unless the loan agreement provides it is to float with changes in the specified index.
- Effective date:** Loans and advances made after June 30, 2001
- 22 Qualified housing districts.** Eliminates a statutory cross reference to qualified housing districts which was repealed in 2001.
- Effective date:** Retroactive to the repeal of section 273.1399
- 23 Deficit reduction authority.** Clarifies that the authority to uncap the original tax rate and change fiscal disparities options for deficits in pay-as-you-go agreements applies only to agreements entered into before August 1, 2001.
- Effective date:** Retroactive to the original effective date for the provision
- 24 Preexisting obligations.** Changes the definition of preexisting obligations to include refunding bonds. This will allow refundings that reduce debt service costs. The required date for contracts to issue bonds qualifying as preexisting obligations is changed from August 1, 2001, to July 1, 2001. This corrects a drafting error and makes the date consistent with the provisions in the pooling provisions for deficit reduction.
- Effective date:** Retroactive to the original effective date for the provision
- 25 Fiscal disparities option, economic development districts.** Clarifies that the fiscal disparities option for an economic development district may be changed to clause (1) to offset a deficit. This was authorized in the 2001 tax bill, but it was unclear whether it applied to economic development districts. The law requires these districts to make their fiscal disparities contributions out of increment (the clause (2) option). The deficit reduction statute contains language suggesting its authority may be used only if the authority could elect clause (1).
- Effective date:** Day following final enactment for all pre-2001 districts
- 26 Abatement levy limit; uncollected abatements.** Provides that uncollected abatement levies from a prior year that are added to the current levy are not subject to the levy limit on abatements.
- Effective date:** Property taxes payable in 2004
- 27 Uncollected tax abatement levies.** Clarifies that if a tax abatement levy is uncollected, the political subdivision can add it to the abatement levy for the next year. This portion of the levy would not be subject to the limit on the amount of the abatement levy.
- Effective date:** Property taxes payable in 2004
- 28 Definition of increment, pre-1979 districts.** Clarifies that clause (1) definition of increment (property taxes paid by captured tax capacity) applies to pre-1979 districts. This

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likely is the universal practice, to the extent that the Act applies to pre-1979 districts.

**Effective date:** Day following final enactment

- 29** **Effective date.** Modifies the effective date of the 2002 change allowing transfers of increments to pay deficits in bonds that were guaranteed by a developer or pay-as-you-go agreements. These changes are extended to apply to deficits occurring in calendar year 2000 and later. (This will allow the city of Detroit Lakes to transfer increments to pay a deficit, guaranteed by a developer, for one its TIF bond issues.)
- 30** **Moorhead, TIF.** Eliminates the expiration date for the 2002 special law allowing Moorhead to impose a special C/I levy to pay for a TIF district deficit caused by the 2001 property tax changes. In addition, limits the use of increments from this district to paying pre-existing obligations and administrative expenses.
- Background information.** Under the 2002 special law, the maximum amount of this levy is limited to the reduction in the tax increments resulting from the class rate changes in the 2001 tax bill and the elimination of the state general education levy. Because C/I properties in Moorhead qualify for the border city, state-paid disparity credits, the state pays for the cost of this levy, rather than C/I property owners. The disparity credit pays all of the tax to the extent it exceeds an effective tax rate of 2.3 percent.
- 31** **Hopkins, TIF.** Allows the city of Hopkins to extend the duration limit of TIF district 2-11 by up to 4 additional years. In addition, the 5-year rule is extended to 9 years.
- Effective date:** Local approval by the city

## Article 11: Minerals

### Overview

This article makes a number of minor changes in the taxes on taconite and the distribution of revenues from the taxes. Clarifies the taconite tax relief area and taconite assistance area.

- 1** **Taconite tax relief areas.** Makes (along with sections 0 to 0) technical changes to define the area to be consistent with the way the taconite homestead credit, supplement homestead credit, and other taconite aid programs are currently administered.
- Defines a “municipality” for purposes of receiving taconite tax relief as a municipality which had either: (1) on May 1, 1941, at least 40 percent of its assessed value in unmined iron ore; or (2) on January 1, 1977, had a taconite plant or mine or a taconite electric generating plant.
- “Tax relief area” is further defined as the area of school districts meeting one of two qualifications: (1) on May 1, 1941, at least 40 percent of the assessed value was in unmined iron ore and it now is within 20 miles of a taconite mine or plant; or (2) on January 1, 1977, it contained a taconite plant, mine, or a taconite electric generating plant.
- 2** **Taconite assistance area.** Defines a “taconite assistance area” as the area of a school district that contained a municipality, which in 1941 had at least 40 percent of its assessed value in unmined iron ore. This area qualifies for the taconite supplemental aid (from state general fund) and is eligible for taconite assistance from the IRRRA. This definition was further amended in Laws 2003, 1<sup>st</sup> spec. sess., chap. 21, art. 11, sec. 10.

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- 3**        **Cross reference.** Changes a cross reference in the taconite homestead credit statute to be consistent with the changes made in section 0.
- 4**        **Cross reference.** Makes changes in references to be consistent with the definitional changes in section **Error! Unknown switch argument.**
- 5**        **Cross reference.** Makes changes in references to be consistent with the definitional changes in sections **Error! Unknown switch argument.** and **Error! Unknown switch argument.**
- 6**        **Purpose; grant of authority.** Authorizes the commissioner of the IRRRA to apply for, borrow, receive, and expend federal grant and loan money. Effective day following final enactment.
- 7**        **Collection and payment of production tax.** Makes permanent the payment of the taconite production tax in two installments. One-half of the amount must be paid by February 24 and the remaining amount by August 24.
- Under current law the two payment schedule is only in effect for production year 2003. Beginning in 2004, 100 percent of the tax must be paid by February 24.
- Effective for taxes payable in 2004 and thereafter.
- 8**        **Inflation adjustment for school aids.** Eliminates the inflation adjustment for school district distributions and makes changes in references to be consistent with the definitional changes in section **Error! Unknown switch argument.** Effective for distributions in 2004 and thereafter.
- 9**        **Loans from Douglas J. Johnson fund.** Allows the IRRRB to make low interest loans from the Douglas J. Johnson Fund to public entities. Under present law, the agency must charge interest to all borrowers of at least 8 percent, or 3 percent points over U.S. government obligations of comparable maturity, whichever is less. These interest limits will now only apply to loans to private enterprises.
- 10**       **Temporary loan authority.** Authorizes the IRRRA to make loan guarantees from the \$7.5 million of the Douglas J. Johnson fund set aside for constructing or equipping a value added iron products plant or a new nonferrous mine (currently the authorization includes only loans, grants, or equity investments). In addition, loan guarantees will also be allowed from the \$2 million of interest and dividends set aside. Effective the day following final enactment.
- 11**       **Redistribution.** Authorizes release of producer grants of a mine that is sold to the new purchaser of the facility, if the mine had ceased operating before the sale. Moneys that are not released within three years are divided between the Environmental Fund (2/3<sup>rd</sup>) and the Douglas J. Johnson Fund (1/3<sup>rd</sup>).
- 12**       **Revisor instruction.** Instructs the Revisor to change references to the Northeast Minnesota Economic Development Fund to be to the Douglas J. Johnson Fund in the next edition of statutes, consistent with the name change made to that fund in 2002.
- 13**       **Repealer.** Repeals an obsolete credit against the taconite production tax for school bonds that have been paid (Minn. Stat. § 298.24, subd. 3).

Section**Article 12: Public Finance****Overview**

This is the public finance article that makes changes in laws relating to public borrowing and financing of capital facilities. Laws 2003, First Special Session chapter 21, article 10, section 11, provides that the default effective date for this article is the day following final enactment.

- 1 to 7 State Fair bonds.** Authorize the state agricultural society, which operates the state fair, to issue up to \$20 million in revenue bonds. Sunsets the authority after six years, and makes approval of the commissioner of finance a condition of issuing the bonds.
- 8 County computer hardware and software.** Authorizes counties to issue debt for acquisition of computer hardware and original operating system software as long as the software has an expected useful life at least as long as the terms of the notes, which are limited to five years. Sunsets the authorization after two years.
- 9 State guarantee for county debt.** Expands the state guarantee program to include county lease obligation for jails and law enforcement facilities.
- 10 Public safety radio debt.** Authorizes all counties to issue debt under the capital improvement plan (CIP) bond and capital note laws for public radio safety systems. Under present law, this authority is limited to 23 counties.
- 11 City exercise of county hospital powers.** Authorizes a county that does not have a county hospital to authorize a city to exercise the powers of the county hospital law.
- 12 Fund transfers for nursing homes.** Authorizes a county to use surplus funds to acquire a nursing home. This authority does not apply to surplus funds in the road and bridge fund, sinking funds, or drainage ditch funds. Present law permits these fund transfers for maintenance and expansions, but not acquisition.
- 13 City exercise of county nursing home powers.** Authorizes a county that does not have a county nursing home to authorize a city to exercise the powers under the county nursing home law. This includes the power to impose a property tax levy, but this levy could only be imposed on property in the city, not the rest of the county.
- 14 County nursing home bonds.** Authorizes county nursing home bonds to be issued for acquisition, as well as improvement of a nursing home.
- 15 Capital notes; computer hardware and software; home rule charter cities.** Authorizes home rule charter cities to issue notes to finance computer hardware and original operating system software as long as the software has an expected useful life at least as long as the terms of the notes, which are limited to five years. Sunsets the authorization after two years.
- 16 Capital improvement bonds.** Authorizes a capital improvement bond program that applies to cities similar to that which is in current law for counties. Under this program, a city that establishes a capital improvement program can issue bonds for capital improvements without an election. "Capital improvements" means acquisitions or betterments to public lands, buildings or other improvements used as a city hall, public safety, or public works facility. The improvement must have a useful life of five years or more to qualify.

Capital improvements do not include light rail transit or activities related to it, parks, libraries, roads and bridges, administrative buildings (other than a city hall), or lands for those facilities. If the city opts to exercise this authority it must adopt a capital improvement plan that covers at least a five-year period. The plan must describe the estimated schedule, timing and details of specific capital improvements for each year covered by the plan.

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Issuance of the bonds is subject to a reverse referendum upon petition of at least five percent of the voters. The city’s authority to issue bonds under the capital improvement plan is limited to the amount of bonds that would require a levy for debt service that does not exceed 0.05367 percent of taxable market value of all property in the city.

**17 Capital notes; computer hardware and software; statutory cities.** Authorizes home rule charter cities to issue notes to finance computer hardware and original operating system software as long as the software has an expected useful life at least as long as the terms of the notes, which are limited to five years. Sunsets the authorization after two years.

**18 Koochiching county; port authority.** Grants the governing board of Koochiching county the authority to establish a port authority having the powers granted to a city port authority in statute, with the county board exercising the powers of a city council. Any city in the county may participate in the activities of the county port authority under terms agreed to by the county.

A city, county, town, or other political subdivision in the county may apply to the federal government to exercise foreign trade zone powers under federal law. Current law allows either a port authority or an economic development authority to apply to exercise foreign trade zone powers.

**19 Abatement levy limit.** Doubles the limit on economic development abatement levies. The limit under present law is the greater of (1) 5 percent of the jurisdiction’s regular levy or (2) \$100,000.

**20 Metropolitan council, bonding for transit.** Authorizes the metropolitan council to issue up to \$45 million in regional bonds for transit capital projects included in the regional transit master plan and transit capital improvement program.

**Application.** Provides that section 0 applies in the seven Twin Cities metropolitan counties.

**21 Metropolitan council public safety radio bonds.** Expands the permitted use of revenue bonds issued by the metropolitan council for public safety radio systems to include making improvements to the 800 MHz radio system. To qualify, the system must interoperate with the public safety radio system and conform to the radio board technical standards and plan.

**22 Bond allocation, housing pool.** Authorizes an entitlement issuer to apply to the housing pool when it has issued (or returned) all of its carryover allocations from prior years. Under present law, an entitlement issuer must also issue or return the allocation for the current year before applying to the housing pool.

**23 Street reconstruction bonds.** Clarifies that street reconstruction bonds (authorized by the 2002 legislature) may be issued for utility replacement and relocation, public safety street modifications, and other costs incidental to street reconstruction. These costs do not include widening a street, or adding curbs and gutters.

**24 Tourist, Agricultural, and Industrial Development.** Authorizes Beltrami County to spend up to \$5 per capita on these purposes out of the proceeds of the rental and product sales (e.g., timber sales) from tax forfeited lands. This special law was enacted for Beltrami County in 1967. The table shows the history of the changes in the dollar limit for this spending.

Year of legislation	Per capita Amount
1967	\$.25
1979	.50

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1985	1.00
Proposed 2003	5.00

**Background information.** The table below details the allocation of these moneys under general law. Minn. Stat. § 282.08(4) (2002). (Note: Itasca and St. Louis Counties have special laws similar to this law for Beltrami County. The legislature has increased the permitted amount to \$5 for both of those counties.)

<b>Allocation of Proceeds Under General Law</b>	
<b>Purpose</b>	<b>Share</b>
Timber development on tax forfeited land and memorial forests	up to 30%
County parks and recreational areas	up to 20%
Residual	
County	20%
City or town	10%
School district	20%

**Effective date:** Upon local approval by the Beltrami county board.

- 25 **Anoka county bonds.** Validates bonds issued by Anoka county for its public safety radio system. These bonds were apparently issued without first obtaining approval of the Public Safety Radio Planning Committee of its plan and bond issuance, as required under legislation passed by the 2002 legislature.
- 26 **Buffalo city bonds for Highway 55.** Authorizes the city of Buffalo to issue up to \$1.3 million of general obligation bonds. These bonds would be outside of the net debt limits and their issuance would not be subject to referendum approval. The levy for these bonds is outside of any levy limit, including any limit enacted in the 2003 legislative session. The levy is to be ignored in calculating local government aid.
- 27 **Corporate status for federal tax law.** States the Lewis and Clark Rural Water System may act on behalf of its member local government units in issuing bonds. This will enable the corporation, which was established by local units of governments in the states of Iowa, Minnesota, and South Dakota, to issue bonds that are exempt from federal taxation. An entity generally has this ability only if it is a governmental unit itself (defined by having police powers, eminent domain, or tax powers) or if it is authorized to act on behalf a governmental unit. This entity would qualify under the latter provision. This will reduce the borrowing costs of the entity.
- 28 **Nursing home bonds authorized.** Allows Itasca county to issue revenue bonds that are backed by revenues from the nursing home to finance the construction of a 35-bed nursing home to replace an existing private facility. States that the construction constitutes “replacement of an existing nursing home without increasing the number of accommodations for residents” (this allows bonds to be authorized without an election).  
**Effective date.** Upon local approval by Itasca county
- 29 **Special law validation; LOGIS.** Validates a special law enacted in 1980, authorizing the establishment of LOGIS and specifically applies it to bonds issued after April 1, 2003. This law was approved by the board of the directors of the organization as required by the 1980 law, but there is no evidence that the approval was ever filed with the Office of the Secretary of State, a requirement for the approval of special laws under section 654.021, subdivision 3.
- 30 **Kandiyohi county and city of Willmar.** Allows Kandiyohi county to form a county

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economic development authority (EDA) with the same powers as a city EDA, and for the county and the city of Willmar to enter into a joint powers agreement to jointly exercise any of the powers both possess under EDA statutes. Provides that the joint powers entity formed under this section is a special taxing district with the power to levy property taxes up to the EDA levy limit (0.01813 percent of taxable market value), and that any levy by the joint owners entity replaces the EDA levies for Kandiyohi county and Willmar.

**Effective date; no local approval required.** The day following final enactment without local approval

**31 Minneapolis community planning and economic development (CPED) department.**

**Subd. 1.** Authorizes the city of Minneapolis to:

- establish a community planning and economic development department;
- transfer the related duties and functions of any other city department or office;
- transfer employees from the Minneapolis community development agency (MCDA) to the new department, including transferring employees not already in the city's classified service into the classified service;
- establish positions in the unclassified service for the new department; and
- establish terms and conditions of employment for the new department.

**Subd. 2.** Provides that employees of the new department are city employees for the purposes of membership in the public employees retirement association (PERA). Requires employees transferred from MCDA to elect within six months whether to continue in their retirement plan as of the date of the transfer or join PERA. Employees who are members of the Minneapolis employees retirement fund may continue in that fund and retain their status in the fund.

**Subd. 3.** Provides that terms of a collective bargaining agreement in effect between MCDA and its employees are binding upon the city for transferred employees for the term of the contract.

**Subd. 4.** Provides for employees who elect to joint PERA to purchase allowable service credits based on prior service with MCDA.

**32 Minneapolis community planning and economic development (CPED) authority.**

**Subd. 1.** Authorizes the city to exercise the powers granted in statute to housing and redevelopment authorities, port authorities, and economic development authorities, and for area redevelopment, city development, municipal industrial development, enterprise zones, and tax increment financing.

**Subd. 2.** Authorizes the city to delegate to the new department the powers authorized under subdivision 1, except the power to tax and the power to issue obligations of the city.

**Subd. 3.** Provides that assets and obligations of the MCDA may be transferred to the city and administered by the new department. The city will be bound by any associated contractual obligations which previously applied to the MCDA, except that obligations will be secured by the assets pledged by the MCDA and not the full faith and credit and taxing power of the city.



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**Subd. 4.** Authorizes the city to pledge revenues, assets, reserves, or other property transferred to the city from the MCDA to the payment of city obligations.

**Subd. 5.** Authorizes the city to pledge its full faith, credit, and taxing power to finance programs and projects undertaken by the new department.

**Subd. 6.** Authorizes the city to deposit money and investments transferred from the MCDA into any city fund or account unless prohibited by law or contract.

**Subd. 7.** Authorizes the city to dissolve the MCDA if all assets, programs, and obligations of the MCDA are transferred to the city.

**Subd. 8.** Deems industrial development to include economic and housing development for the city's purposes.

**33 Minneapolis CPED limitations.**

**Subd. 1.** Requires that obligations issued to finance activities of the new department be issued by the city council or by the city's board of estimate and taxation at the request of the city council.

**Subd. 2.** Deems actions under sections 0 to 0 to be within the city's charter.

**34 Effective date Minneapolis CPED.** Provides sections 0 to 0 are effective upon local approval conditions by the city of Minneapolis.**35 Definitions.** Defines the terms for the purposes of sections 0 to 0 (Lakes area EDA, Person, Member, and Municipality). The "members" include the cities of Alexandria and Garfield, and the towns of Alexandria and La Grand. However, local approval is needed from each before they are members of the EDA.**36 Lakes area economic development authority.**

**Subd. 1. Establishment.** Establishes the lakes area EDA.

**Subd. 2. Board of commissioners.** Provides that the elected chief executive of each member shall select one commissioner, subject to the approval of the governing body of each member municipality.

**Subd. 3. Time limits for selection, alternative appointment by district judge.** Requires that members select commissioners no later than 60 days from the effective date of the act. Successors must be selected within 60 days of the expiration of existing commissioners' terms. Vacancies must be filled within 60 days. Directs the chief judge of the seventh judicial district to appoint a commissioner when a selection has not been made within the prescribed time.

**Subd. 4. Vacancies.** Provides that when an office of a commissioner becomes vacant, the vacancy must be filled for the remainder of the term in the usual manner.

**Subd. 5. Terms of office.** Provides that initial commissioners serve terms of various lengths, selected by lot. Elected chief executives of new member municipalities must select the length of their first commissioner's term. Succeeding terms are six years in length.

**Subd. 6. Removal.** Provides for removal by unanimous vote of the appointing governing body, with or without cause.

**Subd. 7. Qualifications.** Commissioners need not be residents of the territory of

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the appointing member.

**Subd. 8. Compensation.** Provides that commissioners receive per diem as well as expenses incurred in duties.

**37 Powers; application of EDA law.**

**Subd. 1. Use of EDA powers.** The lakes area EDA may use any statutory powers of EDAs, except as otherwise provided in this act. Provides that the authority's fiscal year is the calendar year.

**Subd. 2. Law that is not applicable.** Provides that certain laws governing an EDA are not applicable to the lakes area EDA: requiring an enabling resolution; setting out terms of commissioners; and establishing a procedure for a city to increase its levy amount for an EDA. The lakes area EDA does not have the authorization to issue general obligation bonds.

**38 Members must levy taxes for authority.** Requires member municipalities to levy a tax for the benefit of the EDA, with each member's share being a pro rata portion of the total amount of tax requested based upon the taxable market value within each member's jurisdiction, but not to exceed 0.01813 percent of taxable market value. The treasurer of each member city and town shall, within 15 days after receiving the property tax settlements from the county treasurer, pay to the treasurer of the authority the amount collected for this purpose.**39 Addition and withdrawal of members.**

**Subd. 1. Additions.** Allows municipalities within Douglas county to petition the authority to join after adopting a resolution by a four-fifths vote of all of its governing body.

**Subd. 2. Withdrawals.** Allows a municipality to withdraw from the authority by resolution of its governing body. Provides that the municipality must notify the board of commissioners at least two years in advance of the proposed withdrawal. Unless the authority and the withdrawing member agree otherwise, the taxable property of the withdrawing member is subject to the property tax levy under section 0 for two taxes payable years following the notification to withdraw, and the withdrawing member retains any rights, obligations, and liabilities obtained or incurred during its participation.

**40 Contracts with nonprofit corporations.** Authorizes the lakes area EDA to enter into contracts with nonprofit organizations for projects it undertakes. Provides that laws governing corporations created under a political subdivision before May 31, 1997, do not apply as long as the governing board of the nonprofit is not the same as, or a majority of the members are not the same as, the governing body of the creating entity.**41 Relation to existing laws.** Asserts that this law must be given full effect even if inconsistent with any other charter or law.**42 Local approval; effective date.** Provides that the provisions of sections 0 to 0 are effective after the governing bodies of each of the municipalities named have adopted a resolution and have timely filed a certificate of compliance with the secretary of state.

**Section****Article 13: Mosquito Control District  
Overview**

Adds the western portion of Carver county to the metropolitan mosquito control district, expands the commission's authority to enter private property, places the commission under the uniform municipal contracting law, increases the commission's levy limit (relative to the Carver County area that is added to the district), and changes the basis for compensation to the commissioners.

- 1 Prohibited pesticide use.** Modifies the prohibition on directly applying a pesticide on a human by overspray or target site spray, if the pesticide application is for mosquito control operations. Under current law, this was allowed only for operations conducted before June 30, 2003. Pesticide applications for mosquito control are allowed if no practicable or effective alternative method of control exists, the pesticide is among the least toxic available for control of the target pests, and residents of the area to be treated are notified at least 24 hours before the application. Notice less than 24 hours in advance is allowed for control operations related to human disease.
- 2 Mosquito control district; establishment of district.** Expands the metropolitan mosquito control district to include all of Carver county.
- 3 Mosquito control district; commissioners.** Provides that there will be two members instead of one member from Carver County on the Metropolitan Mosquito Control Commission.
- 4 Mosquito control district; entry to property.** Authorizes the commission to enter upon private property, even if the owner objects, to monitor for disease-bearing mosquitos, ticks, or black gnats, or for control of mosquito species capable of carrying a human disease in the local area of a human disease outbreak, regardless of whether there has been an occurrence of the disease in human beings.
- 5 Mosquito control district; contracts.** Provides the contracts for the purchase of materials, supplies, and equipment must comply with the Minnesota Uniform Municipal Contracting Law. The \$5,000 general cost expenditure amount and the provision allowing the commission to, by a five-sixths vote, declare that an emergency exists, thus authorizing the immediate purchase of materials or supplies at a cost of between \$5,000 and \$10,000, are both eliminated.
- 6 Mosquito control district; levy.** Clarifies that the area subject to the levy will be expanded to include all of Carver county (see section 0).
- 7 Mosquito control district; compensation.** Authorizes, rather than requires, payments of reimbursement to commissioners for expenses. Per diem payments to commissioners are prohibited. (Current law provides per diem for meetings.)
- 8 Mosquito control district; transitional authority.** Provides that the Metropolitan Mosquito Control District and the Carver County Board of Commissioner may enter into an agreement for the district to provide its services to the part of Carver County that was added to the district under section 0, until the proceeds of the levy from that part of Carver County are available for those services.
- 9 Repealer.** Repeals an obsolete HACA adjustment for the mosquito control district (§ 473.711, subd. 2b), and the provision relating to reimbursements for travel expenses of mosquito control district commissioners with an annual public salary of \$25,000 or more (§ 473.714, subd. 2).
- 10 Effective date.** Effective following final enactment.

Section**Article 14: Miscellaneous****Overview**

Extends the carryover period for the jobs credit for Northwest Airlines from 10 to 20 years.

Repeals the discounts under the cigarette and tobacco products taxes

Prohibits trans-shipment from Minnesota of unstamped cigarettes

Imposes a 35 cent per pack fee on cigarettes produced by manufacturers who have not entered a settlement agreement with the state

Expands the commissioner's authority for compliance activities and directs the commissioner to establish an advance collection program.

Allows the commissioner of revenue to accept payment of court fines

Provides for border city development zone plans to take effect 30 days after they are filed

Provides special TIF authority for the city of Duluth

Repeals an exemption (enacted in 1984) from aggregate tax of the sale of aggregate materials by Benton and Stearns counties to the state and its political subdivisions, and the sale of aggregate to contractors doing public projects

- 1 **Attorney general approval of tax compromises.** Requires attorney general approval of compromises of tax debts, if the debt is being reduced by more than \$50,000. Under present law, the attorney general must approve all compromises of tax debts. This change would give the commissioner of revenue that authority for amounts up to \$50,000.
- 2 **Revenue Department Service and Recovery Special Revenue Fund.** Allows the Commissioner of Revenue to accept payment of court fines designated for tax enforcement.
- 3 **Offer-in-compromise program.** Makes cross reference in the offer-in-compromise program statute to the authority of the commissioner to accept compromise without approval of the attorney general for amounts up to \$50,000 as provided under section 0.
- 4 **Jobs credit.** Extends the carryover period for the jobs credit for Northwest Airlines (under the state refinancing package enacted in 1991) from 10 years to 20 years. Any portion of the credit that remains unpaid at the end of the carryover period would be refunded to the taxpayer. This refund authority would not apply, however, if Northwest Airlines or a successor corporation goes through bankruptcy.
- 5 **Cross reference.** Repeals a reference to the stamping discount under the cigarette excise tax that is repealed by section 0.
- 6 **Cigarette tax discount.** Repeals the discount for distributors who pay the cigarette excise tax. The discount equals 1 percent of the first \$1.5 million of stamps and 0.6 percent of the amount of stamps over \$1.5 million.
- 7 **Cigarettes in interstate commerce.** Prohibits transportation of cigarettes from Minnesota to another state without first applying the tax stamps or paying the excise tax required by the state to which the cigarettes are to be shipped. The tax stamps may not be applied or tax paid, if the other state prohibits doing so or prohibits the sale of the cigarettes. Cigarette dealers must report quarterly to the attorney general on the amounts and brands of cigarettes shipped out-of-state, along with the names and addresses of recipients.

**Effective date:** Day following final enactment

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- 8 Tobacco tax discount.** Repeals the discount for payors of the tobacco products tax. The discount equals 1.5 percent of the tax.
- 9 Fee in lieu of settlement.** Imposes a fee equal to 1.75 cents per cigarette (35 cents per pack of 20 cigarettes) on cigarettes produced by manufacturers who have not entered a settlement agreement with the state. The purpose of this fee is to ensure that manufacturers of these cigarettes compensate the state for the costs that the use of cigarettes impose and to prevent sale of low priced cigarettes from undermining the state's policy of discouraging smoking by minors.

This fee is collected by the Department of Revenue from cigarette distributors in the same manner as the cigarette excise tax. The proceeds are deposited in the general fund. The fee does not apply, if the manufacturer enters an agreement with state. This agreement must be approved by the attorney general and include non-monetary terms similar to the preexisting settlement agreements (e.g., restrictions on promotions and so forth) and include payments equal to at least 75 percent of the formula amount that applies to the four manufacturers who have already settled with the state.

- 10 Solid waste management tax.** Clarifies that the solid waste management tax is not imposed on the charges for county solid waste management services, regardless of how the county collects the charges (i.e., on property tax statement, hauler's billings, etc.). Effective April 1, 2003.
- 11 Definition; borrow.** Defines "borrow" to mean granular borrow, consisting of durable particles of gravel and sand, crushed quarry or mine rock, crushed gravel or stone, or any combination thereof, meeting certain specified requirements.

Borrow was added to the list of "aggregate materials" subject to the aggregate materials tax (i.e., often referred to as the gravel tax) in the 2001 omnibus tax law. However, a definition for borrow was not included in that legislation. A definition is needed for uniformity of taxation by the counties.

Effective for borrow removed and transported on a public road, street, or highway on or after July 1, 2003.

- 12 Border city development zone.** Provides border city development zone plans may take effect 30 days after they are filed with the Department of Trade and Economic Development (DTED). Under present law, these plans do not take effect until the next calendar year beginning 90 days after filing of the plan with DTED.
- 13 Obsolete appropriation language.** Strikes obsolete appropriation language relating to department of revenue compliance programs.
- 14 Duluth TIF.** Authorizes the city of Duluth and its Economic Development Authority to create an economic development TIF district. The city can approve the district only after entering a development agreement providing for the construction of an aircraft maintenance facility with a minimum square footage of 150,000 and providing for employment of at least 200 employees with average compensation of \$30,000 per year.

This district would have a duration limit of 25 years of increment (as opposed to 8 years under general law). General law limits use of increments from economic development districts to assisting limited types of businesses – manufacturing, warehousing, research and development, telemarketing, and tourism facilities in defined counties. Aircraft maintenance

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work would likely to meet this definition.

**Effective date:** Local approval by the city, county, and school district

**15 Advance collection program.** Directs the commissioner of revenue to establish an advance collection program. In establishing and operating this program the commissioner is directed to:

- Minimize the negative impacts on tax compliance
- Maximize collecting tax that otherwise would not be collected at all.

Under the program, the commissioner would use offer in compromise authority to provide discounts on debts, which are older than 2 years old on the department’s account receivable system. The commissioner may select the debts that will qualify and may exclude debts that the commissioner determines are not appropriate to be included. Discounts could be offered, subject to the following limits:

Age of the original debt on AR	Maximum discount
2 years or less	Current practice
2 years to 4 years	35%
more than 4 years	50%

**16 Repealer.** Repeals a 1984 law that gave an exemption from the tax on aggregate materials imposed by Benton and Stearns counties, on aggregate that was (1) sold to the state of Minnesota and its political subdivisions and (2) purchased by contractors for use in projects for the state of Minnesota or its political subdivisions. Effective upon local approval for each of the counties.